

# **Implementing the EU Services Directive in the UK**

A consultation response by the Office of Fair Trading

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OFT980

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General:

**General Question:** Do you have any comments in general on implementation of the Services Directive in the UK?

**Comments:**

The Office of Fair Trading (OFT) is the UK's competition and consumer authority. Our mission is to make markets work well for consumers. Our vision is for competitive, efficient, innovative markets where standards of consumer care are high, consumers are empowered and confident about making choices and where businesses comply with consumer and competition laws but are not overburdened by regulation.

We adopt a market-informed approach with a focus on outcomes that support productivity growth and consumer and business welfare. We believe this approach is in the best interests of both businesses and consumers as well as to the benefit of the UK economy.

We consider that the Services Directive will allow and encourage more competition between service providers at a cross-border level, thus providing benefits to the consumer in terms of choice and price.

**Chapter A: Points of Single Contact (pages 23-35)**

Q4 Do you agree with the Government's proposed approach to the role of the PSC?

√	Yes
	No

**Comments:**

We support the proposed principle of 'pro-active signposting' and agree that it is the most practical option to build on existing mechanisms in order to meet the requirements of the Directive.

**Chapter B: Administrative Cooperation (pages 36-47)**

Q21 How great a net increase in workload might you expect competent authorities to face as a result of the administrative cooperation provisions of the Directive?

**Comments:**

The OFT is being considered as the competent authority for the estate agency sector under the Services Directive.

Information on, for example, prohibition orders and warning orders made under the Estate Agents Act 1979(EAA) should be easily accessible for other competent

authorities as they are already publicised by means of OFT press releases and are entered on to a public register which we are working towards making accessible online. On preliminary investigations there could be a risk that disclosure could prejudice the investigation but we would consider on a case by case basis and assist whenever we can. Other information we have obtained may be provided within the limits under Part 9 of the Enterprise Act 2002, or where we have obtained the service provider's consent.

As the information relating to final decisions concerning final actions (as referred to in Article 33(2) of the Services Directive) is already publicly accessible, this element should not require an increase in net workload. It is however, difficult to predict the volume of requests from other competent authorities at this stage, or how many UK estate agents intend to do business in other member states. This makes it hard to estimate how much extra work this would entail for the OFT or other competent authorities. It is also unclear at this point which other member states will also have designated competent authorities for the estate agency sector and will therefore be seeking our assistance on a regular basis.

Q22 Are there any additional competent authorities who regulate areas of service provision within the scope of the Directive but which are not listed in Annex D?

**Comments:**

The Consumers, Estate Agents and Redress (CEAR) Act 2007 enables the Secretary of State to require all those engaging in estate agency work in relation to residential property to be members of an OFT approved estate agents redress scheme. We consider that such approved redress scheme operators will be organisations which supervise in a collective manner access to the provision of estate agency services. Operators will have membership requirements which in effect could be considered as regulating access for a service provider. This would appear to us to satisfy the definition of competent authority in the Directive and bring redress scheme operators within scope.

However, we are aware that the definition of a competent authority in relation to OFT approved estate agency redress scheme operators is currently being considered by BERR as part of the Directive's implementation process and we will continue to engage in the discussion. Please also see our response to Q25.

Q23 Are you aware of any competent authorities whose statutory regime would need to change to comply with Article 30(2)?

**Comments:**

Under the Estate Agents Act 1979 the OFT's powers to check, investigate and regulate are limited to the UK. Complaints received from overseas might give us occasion to carry out an investigation in the UK, but under the EAA this would remain limited to the UK.

Q24 Do you have any comments on the implementation of Article 30(2)?

**Comments:**

Please see answer to Q23.

In order for the OFT to comply, the Estate Agents Act 1979 would need to be amended to allow us to take action where the service has been provided or caused damage in another member state as our powers are currently limited to harm to consumers within the UK.

Q25 Are you aware of any competent authorities whose statutory regimes would need to change to be able to comply with the obligations to provide mutual assistance?

**Comments:**

The OFT and some other public authorities are covered by Part 9 of the Enterprise Act 2002 in terms of information disclosure. We would therefore need to take the requirements and restrictions of Part 9 into account when considering the provision of information to any competent authorities.

**If OFT approved estate agents redress scheme operators are deemed to act as competent authorities:**

The Consumers, Estate Agents and Redress Act 2007 (CEAR Act 2007) under which the estate agents redress schemes are set up and approved has been added to Schedule 14 of the Enterprise Act 2002 (by section 29(1) and (2) of the CEAR Act 2007). This means that disclosure of information gathered by the estate agents redress scheme operators in connection with the estate agent redress scheme will be subject to the restriction on disclosure specified in Part 9 of the Enterprise Act 2002. Furthermore, OFT approved estate agents redress scheme operators may be considered to be performing a public function and so be regarded as public authorities within the meaning of section 238(3) of Part 9 Enterprise Act 2002, for the purposes of the redress scheme.

However, section 240 of the Enterprise Act 2002 could be applied to enable disclosures to be made to fulfil 'community obligations' under the Directive subject to the considerations set out in section 244 of the Enterprise Act 2002 which apply to any competent authority.

Q27 Are you aware of any registers containing information on service providers and which UK competent authorities can consult, for which the access rights would need to be changed in order to comply with the Directive?

	Yes
√	No

**Comments:**

The OFT operates a number of registers which competent authorities from other member states will be able to access. These public registers are, or soon will be,

accessible through the OFT's website and include the following:

### **Register of Orders and Undertakings**

The register provides details of Orders made and undertakings currently in force under the market investigations of the Enterprise Act 2002, and the monopoly and mergers provisions of the Fair Trading Act 1973.

The register also lists the relevant reports by the Competition Commission or Monopolies and Mergers Commission or the OFT. It is compiled and maintained under the OFT's Enterprise Act 2002 obligations.

### **Mergers Undertakings Register**

This public register provides the text of any undertakings accepted or orders made under Part 3 of the Enterprise Act 2002. This covers:

- initial and interim undertakings and orders - obtained in completed merger situations for the purpose of preventing pre-emptive action on the part of the parties to the merger
- undertakings in lieu of reference
- final undertakings and orders.

### **Consumer Credit Public Register**

The Consumer Credit Act 1974 requires most businesses that offer credit or lend money to consumers to be licensed by the OFT. This includes where credit is arranged to finance the purchase of goods or services. Licensing arrangements may also be required for debt collectors, debt advisors and businesses that offer goods for hire or leasing. The Consumer Credit Public Register is maintained by the OFT and details everyone who holds a consumer credit licence, has applied for one, or had one revoked, suspended or varied. We are currently working on providing the Consumer Credit Public Register online.

### **Estate Agents Register**

The Estate Agents Act 1979 covers anyone who, in the course of business, is engaged in 'estate agency work'. This means introducing to someone else a person who wishes to buy, sell or lease land or property, and/or being involved in negotiating the subsequent deal. The work must be in the course of business, whether as employer or employee, and as a result of instructions from a client. The land or property may be commercial, industrial, agricultural or residential. The Act does not cover arranging rentals or property management but it does allow the OFT to ban any person who it considers unfit to do estate agency work.

The OFT, as required under the Estate Agents Act 1979, has established and maintains a register containing details of every prohibition and warning order made which is currently in operation. The Estate Agents Register will soon be available online.

## **EC Articles 84 and 85 Public Register**

The Public Register of Enforcement Regulations cases contains:

- for every notification on a decision, a summary of the nature and objectives of the agreement or conduct in question, and an indication of the progress or outcome of the application
- a summary of all decisions made under the Enforcement Regulations - the full text of the decisions can be downloaded from this site
- details of public consultations carried out in relation to notifications.

## **CA98 Public Register**

Following an investigation under the Competition Act, the OFT may make a decision establishing that one or more of Articles 81 and 82 and the Chapter I and Chapter II prohibitions have been infringed. In such cases, the OFT may impose penalties on the undertakings committing the infringement and give directions to bring the infringement to an end. If the OFT has made an infringement decision, it must publish its decision.

If the OFT has made a decision that there are no grounds for action in respect of a particular agreement or conduct, it may publish its decision.

A list of the decisions is set out on the OFT's website with links to a summary of each decision, from where the full text can be downloaded.

In addition to the above we have new responsibilities under the Money Laundering Regulations, which could include setting up a register.

## **Money Laundering Regulations**

### Background:

The Money Laundering Regulations 2007 (the regulations) implement the Third EU Money Laundering Directive.

From 15 December 2007 the OFT will be the Supervisory Authority for estate agents (and consumer credit financial institutions). Our role is to effectively monitor and take measures to ensure compliance with the regulations. The regulations apply to estate agents acting in the course of business carried on by them in the UK. Estate agents means anyone engaged in estate agency work as defined by section 1 of the Estate Agents Act 1979. Should an overseas estate agent want to operate in the UK, they will be required to comply with the requirements of the regulations. Estate agents in EU countries will be required to comply with the requirements of the Third Money Laundering Directive.

### Procedural requirements of the regulations:

Under the regulations estate agents are required to put in place risk sensitive anti-money laundering controls in order to anticipate and prevent their business from being used by criminals to launder money or fund terrorism.

Estate agents are required to:

- verify customers identity and nature of business before entering into business relationships or transactions,
- train staff in the procedures and laws relating to anti-money laundering (these are UK laws – Proceeds of Crime Act 2002 and Terrorism Act 2000 as well as the regulations)
- keep records of customer identity and business relationships for five years, and
- report suspicious activity to the Serious Organised Crime Agency in the UK.

It is the anti-money laundering controls that the OFT is responsible for supervising. We have published guidance for estate agents on what they must do which we anticipate that estate agents operating in the UK should use to help them implement their duties.

Registration requirements:

Under the regulations the OFT has been given discretion to require estate agents to register with us. Where we maintain a register of estate agents for anti-money laundering supervisory purposes an estate agent is required to register within six months of the register being established or within six months of setting up in business and can not carry on business without being included on the register. Failure to register is an offence under the regulations (for which OFT can issue a civil penalty or seek to prosecute).

Q29 A national liaison point needs to be established to comply with the Directive. Do you have any comments about the proposal to establish one such national liaison point in the Department for Business, Enterprise and Regulatory Reform?

**Comments:**

We would support the proposal to establish the national liaison point within the Department for Business, Enterprise and Regulatory Reform.

Q30 Do you have any comments as to whether national liaison points should also be established within Scotland, Wales and/or Northern Ireland?

**Comments:**

We have no preference as to whether additional national liaison points should be established in Scotland, Wales and/or Northern Ireland.

Q31 Do you agree that option 3 should be the option adopted for the way competent authorities are registered with IMI? If so, why? If not, which option would you favour and why?

	Yes, I agree option 3 should be adopted
√	No, I do not agree that option 3 should be adopted

**Comments:**

The IMI system will only be effective if it is able to facilitate easy, secure and speedy access to information for enquirers. This aim is likely to be most easily achieved if all competent authorities in all member states are signed up to the same system. If the system does not gain comprehensive coverage it could result in uncertainty between competent authorities regarding how to communicate with counterparts as well as potential delays in the exchange of information.

We also have some concerns relating to guaranteeing the safety of information being exchanged between competent authorities if the IMI system is not used. For this reason we would suggest that option one would be the most appropriate to be adopted, together with the requirement to make responding to requests a legal requirement.

From the consultation document it is not clear whether the Commission is intending to make it a legal requirement for all member states to use the IMI system once it is established. If the registration requirement for the IMI is to be left to individual member states then we consider that information on how each member state is implementing this requirement will need to be made easily available so that approaches between competent authorities can be made using the most appropriate route.

Q32 Do you have any comments on the proposed approach to IMI coordinators?

**Comments:**

We agree with the proposed approach in relation to IMI co-ordinators although we suggest the scope of the individual roles will need to be clearly defined.

Q33 Do you have any comments on the proposed approach to training for use of IMI?

**Comments:**

We agree with the proposed approach for training on the IMI for competent authorities.

## **Chapter C: Ensuring the Quality of Services (pages 48-62)**

Q34 Do you have any comments on what basic information should be available on the 'consumer portal'?

### ***Comments:***

We believe that in order to maintain consumer confidence in any information provided on the consumer portal, consumers should be able to access as much information as possible from a visit to the website and for direct links to be provided to other organisations whenever appropriate. The aim should be for consumers to use the consumer portal to become generally better informed about their rights when shopping cross border. It should also empower them to not only assert their rights following a purchase if there is a problem, but to provide them with the relevant information they need before they decide to purchase a service cross border.

We agree with the proposals within the Directive and consider that information to be available on the consumer portal should include:

- Pre-purchase information for consumers on what to consider before purchasing a service cross border.
- Information for consumers on their rights and consumer protection when shopping cross border in other member states.
- Information for consumers on existing, revised and new EU and national legislation affecting cross border purchases.
- Information for consumers on EU wide specific sector consumer protection issues.
- Warnings and alerts for consumers about cross border scams, including guidance on how to avoid falling victim to scammers and what to do.
- Advice and information on redress provisions within member states, including small claims procedures.
- Advice and information on alternative dispute resolution mechanisms within member states including links to websites where available, and whether such mechanisms are open to cross border complaints.
- Advice and information on compliance with the Data Protection and E-Privacy Directives.

Q35 Which of the options listed do you think is best placed to deliver the consumer portal required under Article 21? Is there an alternative not identified that you prefer?

### ***Comments:***

We consider that the European Consumer Centres Network (ECC-Net) would be the best placed organisation to deliver the requirements under the consumer portal. As the existing EU wide organisation for providing consumers with information on

consumer protection issues and redress it already performs many of the functions required of the consumer portal relating to the cross border purchase of goods. It would therefore be ideally situated to expand such facilities to include cross border purchase of services. There is potential for confusion if consumers need to go to a different organisation if the cross border transaction relates to either goods or services. Some transactions may in any case contain an element of both. ECC-Net could offer a single contact point for consumers on cross border transactions and is one of the options suggested within the Directive as being suitable to perform this function (Article 21 (2)).

One of the other options suggested within the consultation document is Consumer Direct, which is the online and telephone information service operated by the OFT. However, this facility currently only provides first tier advice for consumers who have a query. There is no follow up of the queries, or 'second tier' advice provided as would be required to meet the consumer portal requirements. In order to operate such a system, the business model of the current Consumer Direct operation would need to be completely overhauled and reconfigured to accommodate the new requirements.

We consider that further consideration should be given to expanding the remit and resources of the ECC Net centre to take on the extra functions and therefore provide a single, branded centre for consumers to use for both goods and services cross-border.

Q36 Do you have any comments on the use of mutual assistance procedures to obtain information for service recipients?

**Comments:**

We welcome the proposal that the means for facilitating the mutual assistance procedures should be discussed with the Commission and other member states. A harmonised mechanism across all member states would be helpful in ensuring equality of assistance for consumers wherever they are based.

We would expect that such a system would have built in performance and quality assurance indicators to ensure that requests are dealt with effectively and promptly in order to maintain high standards. These indicators should be publicised and all participants required to adhere.

Information provided in different languages is likely to cause problems for recipients so we consider that it is essential that there are translation facilities built into this process. Consumers are unlikely to have confidence in a system which may be a lottery in terms of whether the information is provided in a language they can understand.

As the ECC Net is already an established network of centres within the EU we consider that the mutual assistance requirements should be easily facilitated within its current structure.

Q37 In your area of expertise, are you aware of any legal or administrative requirements to make information available to service recipients?

	No
√	Yes

**Comments:**

From our initial research, we are aware of a number of existing requirements within consumer protection legislation which include varying requirements for the provision of information. More detail on the individual requirements we have found under each piece of legislation is set out in the attached table (Annexe A). It should be noted however, that we do not regard this as a comprehensive or exhaustive list and there may be other requirements in legislation which we have not included.

Q38 Do you agree that the legislative approach outlined in relation to the information and redress requirements is sensible? If not, what alternatives can you propose?

√	Yes, the approach is sensible
	No, the approach is not sensible

**Comments:**

We agree that a legislative option is the correct approach for these types of requirements and should help to provide certainty for both service providers and recipients on what is necessary. Although the guidance for the complaints handling timescales will need to be flexible and appropriate for the type of provision, there will need to be a level of prescription to avoid confusion for both providers and consumers as to what is acceptable.

We are aware that a similar issue was raised under the recent EU consultation on a revision of the Package Travel Directive, which has a similar provision under Article 6, to say that 'In cases of complaint, the organiser or retailer or his local representative, must *make prompt efforts to find appropriate solutions*'. The Commission's working paper raised the issue that 'this provision appears to be imprecise and leads to confusion. It may therefore need to be clarified how the terms prompt and effort and appropriate solutions should be interpreted'.

In light of this experience we consider that the legislation will need to set out as clearly as possible what is acceptable under the provisions.

Q39 Do you have a view on how we should define 'in the shortest possible time'? What factors or constraints might be relevant in determining the time needed to respond to complaints?

**Comments:**

The OFT's Consumer Codes Approval Scheme (see response to Q42) sets specific criteria for complaint handling. Criterion 4a<sup>1</sup> requires that 'a code of

<sup>1</sup> *Consumer Codes Approval Scheme: Core criteria and guidance* [November 2006]  
[http://www.of.gov.uk/shared\\_of/Approvedcodesofpractice/of390.pdf](http://www.of.gov.uk/shared_of/Approvedcodesofpractice/of390.pdf)

practice shall 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 prescribed'. The criterion further requires that code members' point of sale, pre-contract material and contractual material must publicise access to the complaints system. Code members must fully inform consumers of the key elements of the complaint system, including:

- full contact details
- any information they must provide – this must be reasonable and not require excessive detail or form-filling
- reasonable timescales for dealing with the complaint – including a timescale for resolution
- details of any further complaint procedures in the event that the business is unable to satisfy the complainant.

At present there are six OFT approved codes in the areas of estate agency, vehicle sales, car maintenance and repair, carpets, and direct selling. At Annex B we have set out some examples of the procedures required for member businesses of an OFT approved code. We do not suggest that these should be taken as standard requirements but could be viewed as some examples of good practice.

We are also aware of the Financial Services Authority guidelines<sup>2</sup> for the Financial Ombudsman Scheme on complaints handling procedures for businesses which may be a useful indicator of good practice.

In considering factors or constraints that might be relevant in determining the time needed to respond to complainants, 'including those resident in another member state' (Article 27(1)), we consider the following could be included:

- The complexity and seriousness of individual complaints –there may need to be extra time allowed for investigation, particularly if the complaints relate to health or safety issues such as accidents or personal harm
- Method of communication – correspondence by post for example may take longer between member states and therefore lengthen the process.
- Language barriers - although these may have been overcome in order to purchase and/or provide the service, it is possible that a complaint may exacerbate any problems that exist and therefore take longer to resolve
- Where there is an out of court dispute resolution mechanism there may be time limits beyond which complaints will not be considered, and due regard will need to be taken of such time limits.

This is however a complex issue which could have implications for all UK service providers and their customers and we believe that further research into existing good practice in complaints handling procedures would be helpful in setting guidelines for businesses. We would be happy to contribute to such research.

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<sup>2</sup> <http://fsahandbook.info/FSA/html/handbook/DISP>

Q40 What approach do you think should be taken to enforcement of the information and redress provisions?

**Comments:**

We agree that inspections and enforcement of the information and redress requirements should be risk –based and in line with Hampton principles. Evidence of compliance should not need to be routinely provided.

We are not aware of any reasons why the Enterprise Act 2002 should not be amended to include the enforcement of such provisions for the business to consumer elements.

However, we would not regard the EA02 as the most appropriate mechanism for enforcement of the business to business elements. The OFT focuses its efforts and resources on deterring and influencing behaviour that poses the greatest threat to consumer welfare. We would therefore need to prioritise our resources to deal with business to business cases where there is also significant consumer detriment.

We agree that further consideration of this issue is necessary.

Q42 Do you agree with the proposed approach of encouraging providers to take action on the provisions in Articles 26 and 37? What would be effective ways for encouraging providers to take action? What current initiatives are you aware of in this regard?

**Comments:**

The OFT agrees that members states should encourage providers to take action voluntarily through use of such methods set out in Article 26 (1) (a) and (b) to ensure the quality of service provision.

The Enterprise Act 2002 gives the OFT the function of promoting good practice in carrying out activities which may affect the economic interests of consumers in the United Kingdom. In carrying out that function the OFT has developed a self regulatory scheme which gives approval to consumer codes administered by a 'code sponsor' (e.g. trade association), which meet the OFT's challenging and robust criteria<sup>3</sup> aimed at ensuring the quality of customer service provisions.

**Consumer Codes Approval Scheme (CCAS)**

The OFT is committed to supporting self-regulation through its Consumer Codes Approval Scheme (CCAS) as a key preventative tool to address market failures and make markets work well for consumers. The CCAS aims to promote and safeguard consumers' interests by helping them identify traders who promise to treat them fairly if things go wrong, and to encourage businesses to improve their levels of customer service beyond the basic requirements of consumer law.

Consumer codes approved by the OFT offer the following:

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<sup>3</sup> Consumer Codes Approval Scheme core criteria and guidance [November 2006]  
[http://www.of.gov.uk/shared\\_of/Approvedcodesofpractice/of390.pdf](http://www.of.gov.uk/shared_of/Approvedcodesofpractice/of390.pdf)

- Clarification for consumers and businesses on what compliance with consumer legislation means in the context of a particular sector.
- Clear customer service standards in excess of the statutory minimum. These include, as appropriate to the sector, rules on undesirable trade practices, misleading advertising, clear and accessible pre-contractual information, high pressure selling, clear contractual terms and conditions, delivery and completion dates, cancellation rights, guarantees and warranties, protection of deposits and prepayments, after-sales service and additional help for vulnerable consumers.
- Speedy and user-friendly redress procedures for consumer complaints. These complaints may include breaches of legislation as well as breaches of the additional rules set out within the code. Consumers using members of OFT approved codes have access to internal complaints handling procedures within individual businesses and to independent redress schemes such as ombudsmen or adjudication schemes.

### **Local Authority Assured Trader Scheme Network (LAATSN)**

The Local Authority Assured Trader Scheme Network (LAATSN) exists to promote and develop local authority trader schemes operating in the trading standards field of activity, providing a framework and support for their development. Schemes applying for membership of LAATSN have to meet minimum standards. A key focus of LAATSN is the sharing and development of good practice across schemes.

Local authority trader schemes offer a number of significant benefits to local communities. They are valuable in terms of raising customer service standards by local businesses, promoting consumer confidence and providing a signpost to reputable businesses, and assisting in the process of marginalising rogue traders. Moreover, they tend to attract many smaller businesses who may not wish to join larger national trade associations.

LAATSN is 'owned' by Local Authority Trading Standards Services and supported nationally by LACORS, TSI and the OFT.

The OFT agrees that member states should encourage the development of voluntary European standards (Article 26 (5)) and the drawing up of codes of conduct at a Community level (Article 37). Some of the UK trade associations, whose codes have been approved under the CCAS, are affiliated to European trade associations representing their sectors.

We are aware there are a number of European and international organisations to which trade associations from member states are affiliated and this may be a way to encourage trade bodies from member states to draw up codes of practice which include generic quality standards of service provision.

Q43 Which of the three options for providing information on labels and quality marks is preferable? What alternatives are there?

**Comments:**

We agree that it is very important for consumers to have information on what labels and other quality marks signify, particularly when they are being used as a promotional or marketing tool by a business or group of businesses. There is scope for consumers to make assumptions about what is being promised or to be deliberately misled, and this can lead consumers to make poor choices based on incorrect information.

While we can see the benefits of operating a central facility or website to display labels, quality marks and similar logos we also have a number of concerns with this approach.

Labels and quality marks can vary a great deal both in what they signify and more importantly in what they deliver. Our own Consumer Codes Approval Scheme is based on a system of giving approval to codes of practice which not only meet our criteria on paper, but have also provided evidence that they operate effectively in practice. We believe that such evidence from monitoring is essential before any form of accreditation or approval is granted as simply signing up to a code or other set of rules or principles does not on its own provide any form of compliance monitoring. This is in our view a crucial element in any form of accreditation or quality marking if consumers are to have confidence in what is being offered by the use of labels or quality marks. Without some form of overall quality checking we do not consider that such marks can always be relied upon to assist consumers to make the right choices.

The use of a website which takes at face value the statements made by the organisations operating such labels/quality marks could potentially in our view give such labels an official credibility which may not be justified. Consumers using such a site would expect that they could use the information appearing on it with confidence given its official backing, but this would not be the case. There could also be issues of liability should the claims of the operators be unfounded and result in problems for consumers who are likely to consider that the website operator is responsible for the information and claims about the labels and marks made on the website. If the website operator disclaims any responsibility for the accuracy of the information provided, then it could call into question why the information is provided at all.

Q44 To what extent is information on labels and quality marks already available? How could this be improved?

**Comments:**

Our experience in this area suggests that information on labels and quality marks is generally provided by the organisations who 'own' such labels. How extensively this information is provided varies greatly depending on the target audience and the purpose of the label or mark, that is, whether it is used as a 'reassurance mechanism' for consumers when considering a purchase, or simply to provide

information that a product/service complies with official standards.

We have not been able to source a single, clear definition of labels and quality marks, but are aware of some of the following umbrella sites which provide information.

- Business Link provides some information about quality management standards from the certification body International Organization for Standardization (ISO 9000 series)
- The Standards Information Service website [www.standardsinformationservice.com](http://www.standardsinformationservice.com) also aims to be an effective resource for businesses seeking to maximise both their understanding of standards, and the benefits they gain from them. The website refers to BSI British Standards, the United Kingdom Accreditation Service as well as trade associations and links to other sources of interest.
- The UK Intellectual Property Office, an executive agency of the Department of Innovation, Universities and Skills, is responsible for granting Intellectual Property (IP) rights in the UK. The rights include Patents, Designs, Trade Marks and Copyright. Its website [www.ipo.gov.uk](http://www.ipo.gov.uk) has a search function for those organisations whose quality marks are registered designs or trade marks. For example, TrustMark is a registered trade mark and appears on the IPO website <http://www.ipo.gov.uk/tm/t-find/t-find-text/tmtsearch-default.aspx>
- Information on similar schemes such as TrustMark (a self-regulatory scheme for builders and contractors supported by the Department of Business, Enterprise and Regulatory Reform) and the Local Authority Assured Trader Scheme Network (please see response to Q42) are also detailed on the Consumer Direct, OFT and TrustMark websites.

Within our Consumer Codes Approval Scheme, promotion of the Approved code logo is an essential element of raising consumer confidence and signposting consumers to businesses which offer certain benefits. In order to successfully promote the logo we have used a variety of marketing mechanisms such as radio advertising, posters, leaflets, seminars to business and enforcement bodies, newsletters, newspapers, TV appearances, and so on. The OFT's CCAS criteria also require code sponsors of Approved codes and their member businesses to publicise the code and the OFT Approved code logo to ensure that consumers are aware of their existence. Recent research carried out for the OFT has shown the effectiveness of such campaigns in raising consumer awareness of the CCAS brand.<sup>4</sup>

We do not propose that such high levels of promotion are appropriate for all labels/marks, but we are conscious that the success of informing consumers about what they represent will vary according to a number of factors, including the existing visibility of the label/mark and its perceived relevance to the consumer.

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<sup>4</sup> *Consumer Codes Approval Scheme – campaign evaluation. A report for the Office of Fair Trading prepared by Continental Research. OFT 944 July 2007*

#### **Article 26 (4)**

Article 26 (4) requires member states to encourage the development of independent assessment, notably by consumer associations, on the quality and defects of service provisions. The CCAS requires constructive liaison between code sponsors and consumer advisory bodies at the drafting, monitoring and operation stages of the codes. This helps to provide code sponsors with a perspective on areas of consumer detriment and community/social responsibility. The CCAS core criteria also require code sponsors to submit annual reports to the OFT and other interested parties that highlight the issues identified by the independent compliance audits and complaints received. Code sponsors must also feed proposals for improvement arising from compliance monitoring into their annual reports on the operation of their code. Some code sponsors publish these annual reports on their websites. The OFT also monitors the performance of the codes through such things as feedback from consumer advisory bodies, feedback from consumers, and through complaints data and other sources, to ensure that the approved codes continue to meet our criteria and are working effectively.

Q48 What professional rules relating to commercial communications by the regulated professions already exist? How should we ensure that all professional rules comply with the Directive?

#### **Comments:**

In March 2001 the OFT published a report <sup>5</sup> which identified restrictions on competition in three professions: law, accountancy and architecture in England and Wales. The majority of these restrictions originated in professional rules and included some relating to commercial communications. The report was followed up by a progress statement by the OFT in April 2002<sup>6</sup> which found that many of the conduct restrictions had been addressed by the relevant bodies. These two reports formed part of a wider review.

We believe that restrictions on most types of advertising have now been lifted but not in respect of publishing success rates (cases won) within the legal profession as it is argued that these are not a good guide to quality and could deter lawyers from taking on less winnable cases and affect access to justice.

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<sup>5</sup> *Competition in professions* A report by the Director General of Fair Trading, March 2001, available on the OFT website at [www.offt.gov.uk](http://www.offt.gov.uk)

<sup>6</sup> *Competition in professions* Progress statement April 2002, OFT 385

Q49 We invite views on how best to ensure the provisions on multidisciplinary activities are workable, particularly from respondents in those areas falling under the two affected groupings. Are you aware of any restrictions on multidisciplinary activities in the UK?

**Comments:**

The OFT's 2001 report referred to above, considered the restrictions on business structure within the legal professions, which were the result of both statutory restrictions and restrictions contained in professional rules. These concerns were addressed by government within the Legal Services Act 2007 which lifts restrictions on alternative business structures to enable different types of lawyers and non-lawyers to manage and own legal practices so as to allow them to adapt business structures to meet client need.

We understand that in Scotland there are as yet no firm plans to lift restrictions on the types of entities/organisations that can perform legal services or allow direct access to the bar. However, proposals from the Scottish Law Society and the Faculty of Advocates are due in Spring 2008.

Q58 Do you have any other suggestions or comments relating to the proposed changes to hallmarking regulation, for example regarding enforcement and the safeguarding of UK consumers?

**Comments:**

The Hallmarking Act 1973 has been specified by the Secretary of State as being covered by the domestic infringement provisions contained within Part 8 of the Enterprise Act 2002. Local authority trading standards services (LATSS) generally enforce these provisions.

## Annex A

### OFT's response to BERR's consultation on implementing the Services Directive

#### Question 37 - Information Requirements

#### Services Directive 2006/123/EC

Directive 2006/123/EC on services in the internal market includes obligations on businesses to provide consumers with certain information. The table below shows where we consider the same or similar obligations may apply within existing legislation.

INFORMATION REQUIREMENT	UK LAW
<p style="text-align: center;"><b>Article 22</b></p> <p><b>1. Member States shall ensure that providers make the following information available to the recipient</b></p>	
<p>(a) the <b>name of the provider, his legal status</b> and form, the geographic <b>address</b> at which he is established and <b>details</b> enabling him to be contacted rapidly and communicated with directly and, as the case may be, <b>by electronic means</b>;</p>	<p style="text-align: center;"><b>Business Names Act 1985</b></p> <p><i>S.4(1) A person to whom this Act applies shall –</i></p> <p><i>(a) state in legible characters on all business letters, written orders for goods or services to be supplied to the business, invoices and receipts issued in the course of the business and written demands for payment of debts arising in the course of the business –</i></p> <p>(i) in the case of a <b>partnership</b>, the <b>name</b> of each partner,</p>

INFORMATION REQUIREMENT	UK LAW
	<p>(ii) in the case of an <b>individual</b>, his <b>name</b>,</p> <p>(iii) in the case of a <b>company</b>, its corporate <b>name</b>,.</p> <p>(In the case of a limited liability partnership, its corporate name and the name of each member, and)</p> <p>(iv) in relation to each person so named, an <b>address</b> in Great Britain at which service of any document relating in any way to the business will be effective; and</p> <p>(b)in any premises where the business is carried on and to which the customers of the business or suppliers of any goods or services to the business have access, display in a prominent position so that it may easily be read by such customers or suppliers a notice containing such names and addresses.</p> <p style="text-align: center;"><b>The Electronic Commerce (EC Directive) Regulations 2002 ('ECRs')</b></p> <p>6(1) A person providing an information society service shall make available to the recipient of the service and any relevant enforcement authority, in a form and manner which is easily, directly and permanently accessible, the following information -</p> <p>(a) the <b>name</b> of the service provider;</p> <p>(b) the geographic <b>address</b> at which the service provider is established;</p> <p>(c) the details of the service provider, including his <b>electronic mail address</b>, which make it possible to contact him rapidly and communicate with him in a direct and effective manner;</p>

INFORMATION REQUIREMENT	UK LAW
	<p style="text-align: center;"><b>The Consumer Protection (Distance Selling) Regulations 2000 ('DSRs')</b></p> <p>7(1) Subject to paragraph (4), in good time prior to the conclusion of the contract the supplier shall -</p> <p>(a) provide to the consumer the following information –</p> <p>(i) the <b>identity of the supplier</b> and, where the contract requires payment in advance, the supplier's address;</p> <p>(2) The supplier shall ensure that the information required by paragraph (1) is provided in a clear and comprehensible manner...'</p> <p style="text-align: center;"><b>Consumer Protection (Cancellation of Contracts concluded away from business premises) Regulations 1987 ('Doorstep Selling Regs')</b></p> <p>Reg. 4 prevents a contract from being enforceable against a consumer unless the consumer is informed of the information in Sch. 1 which details:</p> <ol style="list-style-type: none"> <li>1. The <b>name</b> of the trader.</li> <li>2. The trader's reference number, code or other details to enable the contract or offer to be identified.</li> <li>4. The <b>name and address of a person to whom notice of cancellation may be given.</b></li> <li>5. A statement that the consumer can use the cancellation form provided if he wishes.</li> </ol> <p style="text-align: center;"><b>Reg. 9 Package Travel, Package Holidays and Package Tour Regulations 1992 SI 1992/3288 ('PTRs') &amp; Reg. 6 Timeshare Regulations 1997</b></p> <p>The Regulations above require that consumers are provided with information</p>

INFORMATION REQUIREMENT	UK LAW
	<p>which is more specific to the service being provided.</p> <p style="text-align: center;"><b>Companies Act 1985</b></p> <p>A company is obliged to state its full <b>name</b>, its registration number, and its registered <b>address</b> on all its business letters and order forms (s. 351 Companies Act 1985) and its name should appear outside every place where its business is carried on (s.348 Companies Act 1985) and on all its other correspondence and trading documents (s.349 Companies Act 1985).</p> <p style="text-align: center;"><b><u>DRAFT</u> Consumer Protection from Unfair Trading Regulations 2007 (CPRs)</b></p> <p>The CPRs make special provision for certain kinds of commercial practice known as 'invitations to purchase'. An invitation to purchase is a commercial communication which indicates the characteristics of the product ('product means any goods or service and included immoveable property, rights and obligations') concerned and the price, in a way appropriate to the communication medium used, and thereby enables the consumer to make a purchase. The CPRs specify information that traders must provide in invitations to purchase. Where information is required but not provided, this will be a misleading omission.</p> <p>Information that is deemed to be material in invitations to purchase includes:</p> <ul style="list-style-type: none"> <li>- the identity of the trader, such as his trading <b>name</b>, and the identity of any other trader on whose behalf the trader is acting (Regulation 6(4)(b))</li> <li>- the geographical <b>address</b> of the trader and the geographical address of any other trader on whose behalf the trader is acting (Regulation 6(4)(c))</li> </ul>

INFORMATION REQUIREMENT	UK LAW
<p>(b) where the provider is registered in a trade or other similar public register, the <b>name of that register and the provider's registration number</b>, or equivalent means of identification in that register;</p>	<p style="text-align: center;"><b>ECRs</b></p> <p>6(1)(d) where the service provider is <b>registered in a trade or similar register available to the public</b>, details of the register in which the service provider is entered and his registration number, or equivalent means of identification in that register;</p> <p style="text-align: center;"><b>Companies Act 1985</b></p> <p>A company is obliged to state its <b>registration number</b>... on all its business letters and order forms (s. 351 Companies Act 1985).</p>
<p>(c) where the activity is subject to an authorisation scheme, the <b>particulars of the relevant competent authority or the single point of contact</b>;</p>	<p style="text-align: center;"><b>ECRs</b></p> <p>6(1)(e) where the provision of the service is subject to an authorisation scheme, the <b>particulars of the relevant supervisory authority</b>;</p>
<p>(d) where the provider exercises an activity which is subject to VAT, the <b>identification number</b></p>	<p style="text-align: center;"><b>ECRs</b></p> <p>6(1) (g) where the service provider undertakes an activity that is subject to value added tax, the <b>identification number</b> referred to in Article 22(1) of the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the member States relating to turnover taxes - Common system of value added</p>

INFORMATION REQUIREMENT	UK LAW
<p>referred to in Article 22(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (1); (1) OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/18/EC (OJ L 51, 22.2.2006, p. 12).</p>	<p>tax: uniform basis of assessment.</p>
<p>(e) in the case of the regulated professions, any professional body or similar institution with which the provider is registered, <b>the professional title and the Member State in which that title has been granted.</b></p>	<p style="text-align: center;"><b>ECRs</b></p> <p>6(1)(f) where the service provider exercises a regulated profession –</p> <ul style="list-style-type: none"> <li>(i) the <b>details of any professional body</b> or similar institution <b>with which the service provider is registered;</b></li> <li>(ii) <b>his professional title</b> and the member State where that title has been granted;</li> </ul>
<p>(f) the general <b>conditions and clauses, if any, used by the provider;</b></p>	

INFORMATION REQUIREMENT	UK LAW
<p>(g) the <b>existence of contractual clauses</b>, if any, used by the provider <b>concerning the law applicable to the contract</b> and/or the competent courts;</p>	<p style="text-align: center;"><b>Unfair Contract Terms Act 1977</b></p> <p>27(1) Where the law applicable to a contract is the law of any part of the United Kingdom only by choice of the parties (and apart from that choice would be the law of some country outside the United Kingdom) sections 2 to 7 and 16 to 21 of this Act do not operate as part of the law applicable to the contract.</p> <p>(2) This Act has effect notwithstanding any contract term which applies or purports to apply the law of some country outside the United Kingdom, where (either or both)—</p> <p>(a) the term appears to the court, or arbitrator or arbiter to have been imposed wholly or mainly for the purpose of enabling the party imposing it to evade the operation of this Act; or</p> <p>(b) in the making of the contract one of the parties dealt as consumer, and he was then habitually resident in the United Kingdom, and the essential steps necessary for the making of the contract were taken there, whether by him or by others on his behalf.</p> <p style="text-align: center;"><b>Unfair Contract Terms Directive 1993</b></p> <p>Article 6.2 of the UCTD stipulates that 'Member States shall take the necessary measures to ensure that the consumer does not lose the protection granted by this Directive by virtue of the choice of the law of a non-Member country as the law applicable to the contract if the latter has a close connection with the territory of the Member States'.</p>

INFORMATION REQUIREMENT	UK LAW
<p>(h) the <b>existence of an after-sales guarantee</b>, if any, not imposed by law;</p>	<p style="text-align: center;"><b>The Consumer Protection (Distance Selling) Regulations 2000</b></p> <p>8(1) Subject to regulation 9, the supplier shall provide to the consumer in writing, or in another durable medium which is available and accessible to the consumer, the information referred to in paragraph (2), either -</p> <ul style="list-style-type: none"> <li>(a) prior to the conclusion of the contract, or</li> <li>(b) thereafter, in good time and in any event - <ul style="list-style-type: none"> <li>(i) during the performance of the contract, in the case of services; and</li> <li>(ii) at the latest at the time of delivery where goods not for delivery to third parties are concerned.</li> </ul> </li> </ul> <p>(2) The information required to be provided by paragraph (1) is –</p> <ul style="list-style-type: none"> <li>(d) <b>information about any after-sales services and guarantees;...</b></li> </ul> <p style="text-align: center;"><b>Timeshare Act 1992</b></p> <p>Sch. 1, Minimum List of Items to be Included in a Timeshare Agreement to Which Section 1C Applies</p> <p>(v) <b>a guarantee regarding completion of the timeshare</b> accommodation or a guarantee regarding reimbursement of any payment made if the accommodation is not completed and, where appropriate, the conditions governing the operation of those guarantees.</p> <p style="text-align: center;"><b>Sale and Supply of Goods to Consumers Regulations 2002 (SI 2002/3045)</b></p> <p><b>15</b> (1) Where goods are sold or otherwise supplied to a consumer which are offered with a consumer guarantee, the consumer guarantee takes effect at the time the goods are delivered as a contractual obligation owed by the guarantor</p>

INFORMATION REQUIREMENT	UK LAW
	<p>under the conditions set out in the guarantee statement and the associated advertising.</p> <p>15 (3) <b>On request</b> by the consumer [...], the <b>guarantee</b> shall within a <b>reasonable time</b> be made available in writing or in another durable medium available and accessible to him.</p>
<p>(i) the <b>price of the service, where a price is pre-determined by the provider</b> for a given type of service;</p>	<p style="text-align: center;"><b>The Consumer Protection (Distance Selling) Regulations 2000</b></p> <p>7(1) Subject to paragraph (4), in good time prior to the conclusion of the contract the supplier shall –</p> <p>(a) provide to the consumer the following information -</p> <p>(iii) <b>the price of the goods or services</b> including all taxes;</p> <p style="text-align: center;"><b>PTRs</b></p> <p>5(1) Subject to paragraph (4) below, no organiser shall make available a brochure to a possible consumer unless it indicates in a legible, comprehensible and accurate manner the <b>price and adequate information</b> about the matters specified in Schedule 1 to these Regulations in respect of the packages offered for sale in the brochure to the extent that those matters are relevant to the packages so offered.</p> <p style="text-align: center;">Sch. 2(9) &amp; (10)</p> <p>9. The <b>price of the package</b>, if the price may be revised in accordance with the term which may be included in the contract under regulation 11, an indication of the possibility of such price revisions, and an indication of any dues, taxes or fees chargeable for certain services (landing, embarkation or disembarkation fees at</p>

INFORMATION REQUIREMENT	UK LAW
	<p>ports and airports and tourist taxes) where such costs are not included in the package.</p> <p>10. The payment schedule and method of payment.</p>
<p>(j) the main <b>features of the service, if not already apparent</b> from the context;</p>	<p><b>The Consumer Protection (Distance Selling) Regulations 2000 ('DSRs')</b></p> <p>7(1) Subject to paragraph (4), in good time prior to the conclusion of the contract the supplier shall –</p> <p>provide to the consumer the following information -</p> <p>(ii) a <b>description of the main characteristics of the goods or services...</b></p> <p><b><u>DRAFT</u> Consumer Protection from Unfair Trading Regulations 2007 (CPRs)</b></p> <p>Regulation 6(4) Where a commercial practice is an invitation to purchase, the following information will be material if not already apparent from the context in addition to any other information which is material information under paragraph (3)</p> <p>(a) the main <b>characteristics of the product</b>, to the extent appropriate to the medium by which the invitation to purchase is communicated and the product;</p>

INFORMATION REQUIREMENT	UK LAW
<p>(k) the <b>insurance or guarantees</b> referred to in Article 23(1), and in particular the <b>contact details of the insurer or guarantor</b> and the territorial coverage.</p> <p style="text-align: center;"><b>Article 23</b></p> <p><b>Professional liability insurance and guarantees</b></p> <p>1. Member States may ensure that providers whose services present a direct and particular risk to the health or safety of the recipient or a third person, or to the financial security of the recipient, subscribe to professional liability insurance appropriate to the nature and extent of the risk, or provide a guarantee or similar arrangement which is equivalent or essentially comparable as regards its purpose.</p>	<p style="text-align: center;"><b>PTRs</b></p> <p><b>Security in the event of insolvency</b></p> <p><b>16.—</b>(1) The other party to the contract shall at all times be able to provide sufficient evidence of security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency.</p> <p><b>Bonding</b></p> <p><b>17.—</b>(1) The other party to the contract shall ensure that a bond is entered into by an authorised institution under which the institution binds itself to pay to an approved body of which that other party is a member a sum calculated in accordance with paragraph (3) below in the event of the insolvency of that other party.</p> <p style="text-align: center;"><b>Solicitors Act 1974</b></p> <p>s.32(a) empowered the Solicitors Indemnity Fund Limited to form and administer the Solicitors Indemnity Fund. This provision facilitates the compulsory indemnity arrangements for the profession designed to protect the interests of the public, predominantly against professional negligence.</p>

INFORMATION REQUIREMENT	UK LAW
<p align="center"><b>Article 22</b></p> <p><b>2. Member States shall ensure that the information referred to in paragraph 1, according to the provider's preference:</b></p>	
<p>(a) is supplied by the provider on his own initiative;</p>	
<p>(b) is easily accessible to the recipient at the place where the service is provided or the contract concluded;</p>	<p align="center"><b>DSRs</b></p> <p>8(1) Subject to regulation 9, the supplier shall <b>provide to the consumer</b> in writing, or in another durable medium which is available and accessible to the consumer, the information referred to in paragraph (2), either -</p> <p>(a) <b>prior to the conclusion of the contract</b>, or</p> <p>(b) <b>thereafter, in good time</b> and in any event -</p> <p>(i) <b>during the performance of the contract</b>, in the case of services; and</p> <p>(ii) at the <b>latest at the time of delivery</b> where goods not for delivery to third parties are concerned.</p> <p align="center"><b>PTRs</b></p> <p>9(1) The other party to the contract shall ensure that—</p> <p>(a) depending on the nature of the package being purchased, the contract contains at least the elements specified in Schedule 2 to these Regulations;</p>

INFORMATION REQUIREMENT	UK LAW
	<p>(b) subject to paragraph (2) below, all the terms of the contract are <b>set out in writing or such other form as is comprehensible and accessible to the consumer and are communicated to the consumer</b> before the contract is made; and</p> <p>(c) <b>a written copy of these terms is supplied to the consumer.</b></p>
<p>(c) can be <b>easily accessed by the recipient electronically</b> by means of an address supplied by the provider;</p>	
<p>(d) <b>appears in any information documents</b> supplied to the recipient by the provider which set out a detailed description of the service he provides.</p>	
<p><b>Article 22</b></p> <p><b>3. Member States shall ensure that, at the recipient's request, providers supply the following additional information:</b></p>	
<p>(a) <b>where the price is not</b></p>	<p style="text-align: center;"><b>Sale of Goods Act 1979</b></p> <p>8(1) The price in a contract of sale may be fixed by the contract, or may be left to</p>

INFORMATION REQUIREMENT	UK LAW
<p><b>pre-determined</b> by the provider for a given type of service, the price of the service or, if an exact price cannot be given, <b>the method for calculating the price</b> so that it can be checked by the recipient, or a sufficiently detailed estimate;</p>	<p>be fixed in a manner agreed by the contract, or may be determined by the course of dealing between the parties.  <b>(2) Where the price is not determined as mentioned in subsection (1) above the buyer must pay a reasonable price.</b>  <b>(3) What is a reasonable price is a question of fact dependent on the circumstances</b> of each particular case.</p> <p style="text-align: center;"><b>Supply of Goods and Services Act 1982</b></p> <p>15(1) Where, under a contract for the supply of a service, the consideration for the service is not determined by the contract, left to be determined in a manner agreed by the contract or determined by the course of dealing between the parties, there is an <b>implied term that the party contracting with the supplier will pay a reasonable charge.</b>  <b>(2) What is a reasonable charge is a question of fact.</b></p> <p style="text-align: center;"><b>PTRs</b></p> <p>11(1) Any term in a contract to the effect that the prices laid down in the contract may be revised shall be void and of no effect unless the contract provides for the possibility of upward or downward revision and satisfies the conditions laid down in paragraph (2) below.  <b>(2) The conditions mentioned in paragraph (1) are that—</b>  <b>(a) the contract states precisely how the revised price is to be calculated;</b></p> <p>12. In every contract there are implied terms to the effect that—  <b>(a) where the organiser is constrained before the departure to alter significantly an essential term of the contract, such as the price (so far as</b></p>

INFORMATION REQUIREMENT	UK LAW
	<p>regulation 11 permits him to do so), <b>he will notify the consumer as quickly as possible</b> in order to enable him to take appropriate decisions and in particular to withdraw from the contract without penalty...'</p> <p><b><u>DRAFT</u> Consumer Protection from Unfair Trading Regulations 2007 (CPRs)</b></p> <p>Regulation 6(4) Where a commercial practice is an invitation to purchase, the following information will be material if not already apparent from the context in addition to any other information which is material information under paragraph (3)</p> <p>(a) either—</p> <ul style="list-style-type: none"> <li>(i) the price, including any taxes; or</li> <li>(ii) where the nature of the product is such that the price cannot reasonably be calculated in advance, the <b>manner in which the price is calculated;</b></li> </ul>
<p>(b) as regards the regulated professions, a <b>reference to the professional rules</b> applicable in the Member State of establishment and how to access them;</p>	<p style="text-align: center;"><b>ECRs</b></p> <p>6(1)(f) where the service provider exercises a regulated profession –</p> <p>(iii) a <b>reference to the professional rules</b> applicable to the service provider in the member State of establishment and the means to access them</p>

INFORMATION REQUIREMENT	UK LAW
<p>(c) <b>information on their multidisciplinary activities and partnerships which are directly linked to the service in question</b> and on the <b>measures taken to avoid conflicts of interest</b>. That information shall be included in any information document in which providers give a detailed description of their services;</p>	<p style="text-align: center;"><b>Estate Agents Act 1979</b></p> <p>Section 21(1) A person who is engaged in estate agency work (in this section referred to as an 'estate agent') and has a <b>personal interest</b> in any land shall not enter into negotiations with any person with respect to the acquisition or disposal by that person of any interest in that land until the estate agent has disclosed to that person the nature and extent of his personal interest in it.</p> <p style="text-align: center;"><b>The Estate Agents (Provision of Information) Regulations 1991</b></p> <p>2.—(1) The following additional information is hereby prescribed and shall be given by an estate agent to his client, that is to say as to the <b>services—</b>  <b>(a) which the estate agent is himself offering, or intends to offer</b>, to any prospective purchaser of an interest in the land; or  <b>(b) which he knows a connected person or (in a case where he or a connected person would derive a financial benefit from the provision of the service) another person is offering, or intends to offer</b>, to any prospective purchaser of an interest in the land.</p>
<p>(d) any <b>codes of conduct</b> to which the provider is subject and the <b>address at which these codes may be</b></p>	<p style="text-align: center;"><b>ECRs</b></p> <p><b>Information to be provided where contracts are concluded by electronic means</b></p> <p>9(1) Unless parties who are not consumers have agreed otherwise, where a</p>

INFORMATION REQUIREMENT	UK LAW
<p><b>consulted by electronic means, specifying the language version available;</b></p>	<p>contract is to be concluded by electronic means a service provider shall, prior to an order being placed by the recipient of a service, provide to that recipient in a clear, comprehensible and unambiguous manner the information set out in (a) to (d) below –</p> <p>(d) <b>the languages offered</b> for the conclusion of the contract.</p> <p>9(2) Unless parties who are not consumers have agreed otherwise, a service provider shall indicate which relevant <b>codes of conduct</b> he subscribes to and give information on how those codes can be <b>consulted electronically</b>.</p>
<p>(e) where a provider is subject to a code of conduct, or member of a trade association or professional body which provides for <b>recourse to a non-judicial means of dispute settlement</b>, information in this respect. The provider shall specify how to access detailed information on the characteristics of, and conditions for, the use of non-judicial means of dispute settlement.</p>	<p style="text-align: center;"><b>The Consumers, Estate Agents and Redress Act 2007 (CEAR Act)</b></p> <p>The CEAR Act enables the Secretary of State by means of an Order, to make it compulsory for estate agents in the UK to belong to an approved redress scheme that relates to all complaints about the buying and selling of residential property. Under the CEAR Act, these redress schemes will need to be approved by the OFT.</p> <p>One of criteria the OFT is using to assess applications to operate an approved scheme under the CEAR Act, requires scheme operators to <b>publicise the scheme to consumers</b> and to existing and potential estate agent members.</p>
<p>4. Member States shall ensure that the <b>information</b> which a provider must supply in</p>	<p style="text-align: center;"><b>Unfair Terms in Consumer Contracts Regulations 1999 SI 1999/2083</b></p> <p>7(1) A seller or supplier shall ensure that any written term of a contract is expressed in plain, intelligible language.</p>

INFORMATION REQUIREMENT	UK LAW
<p>accordance with this Chapter is made available or <b>communicated in a clear and unambiguous manner, and in good time before conclusion of the contract or, where there is no written contract, before the service is provided</b></p>	
<p><b>Article 27 Settlement of disputes</b></p>	
<p>1. Member States shall take the general measures necessary to ensure that providers supply contact details, in particular a postal address, fax number or e-mail address and telephone number to which all recipients, including those resident in another Member State, can <b>send a complaint or a request for information</b> about the service provided. Providers shall <b>supply their legal</b></p>	<p style="text-align: center;"><b>Doorstep Selling Regulations</b></p> <p>9(2) But the supplier shall take all necessary steps to ensure that a consumer who is a party to a contract to which paragraph (1) applies is able to obtain the supplier's geographical address and the place of business to which <b>the consumer may address any complaints</b>.</p> <p style="text-align: center;"><b><u>DRAFT</u> Consumer Protection from Unfair Trading Regulations 2007 (CPRs)</b></p> <p>Regulation 6(4) Where a commercial practice is an invitation to purchase, the following information will be material if not already apparent from the context in addition to any other information which is material information under paragraph (3)</p> <p>(f) the following matters where they depart from the requirements of professional diligence—</p>

INFORMATION REQUIREMENT	UK LAW
address if this is not their usual address for correspondence.	(iv) complaint handling policy;

## **Annexe B**

### **OFT's response to BERR's consultation on implementing the Services Directive**

#### **Q39 Examples of complaints handling procedures within OFT approved codes**

##### **Robert Bosch Ltd**

The car servicing code administered by Robert Bosch Ltd requires member businesses to acknowledge complaints within 5 working days and seek to resolve any complaints within 21 days of receipt. If unsuccessful, Robert Bosch Ltd provides a free conciliation service and will endeavour to resolve the complaint within 21 working days before offering an independent redress mechanism such as arbitration.

##### **Carpet Foundation**

The code administered by the Carpet Foundation distinguishes between complaints dealing with concerns about the quality of the carpet or its installation and complaints about the service, advice and delivery. The former factors in time targets for traders' and manufacturers' site visits/inspections and reports, so for a consumer to receive the trader's decision on the complaint it could take between 14 to 49 working days. By contrast, complaints about the service are investigated and the findings notified to the consumer 'as soon as possible but within 7 days of the receipt of the complaint'. If a solution is not reached, the Carpet Foundation provides a conciliation service where advice is given within 15 working days of receipt of the application for conciliation.

##### **Ombudsman for Estate Agents Company Ltd**

The code administered by the Ombudsman for Estate Agents Company Ltd requires members to acknowledge written complaints within 3 working days and provide a formal written outcome of the estate agent's investigation to the complainant within 15 working days. If the consumer remains dissatisfied, s/he can further pursue the complaint within the estate agent's business by having the complaint considered by staff not directly involved in the transaction, 'such a review (and any further reviews as necessary) must be sent to the complainant within 15 working days'. The consumer has the right to refer the complaint to the Ombudsman within six months of the final view being given by the estate agent.