

COMMS COUNCIL UK CODE OF PRACTICE (version 5)

Introduction to the Comms Council UK Code of Practice

Comms Council UK exists to encourage the development of a healthy and competitive industry providing “over-the-top” (“OTT”) communications products. It sets and monitors basic customer related standards for its members in order to ensure that customers who choose to use a Comms Council UK member will have confidence that they will be provided with high standards of service and customer care.

Comms Council UK members recognise that the products they offer are different in some respects from traditional communications services. The Comms Council UK Code of Practice is designed to help customers by ensuring that they receive suitable information in advance of agreeing to buy these services in order that they can have confidence in the way that a Comms Council UK member will do business with them.

Comms Council UK Members are required to comply with current legislative and regulatory requirements supplemented by the Comms Council UK Code of Practice, which provides guidance and information to both Members and their customers.

To give customers even more confidence, in the unlikely event that a complaint cannot be settled by our Member, the Comms Council UK membership grants access to an easily accessible dispute resolution scheme for the purpose of bringing such complaint to a satisfactory conclusion.

This Code of Practice addresses the provision of services, which are provided to residential customers and small businesses with fewer than 10 employees (“small businesses”).

This Comms Council UK Code of Practice is monitored and administered by the Council of Comms Council UK.

Requirements within the Comms Council UK Code of Practice may be superseded by existing or future legislation, should it be deemed to conflict with the regulatory environment. If this is the case, a review of the Comms Council UK Code of Practice would take place, to make the necessary amendments to ensure the code is compliant with all existing regulation.

Aims of the Comms Council UK Code of Practice

- To promote the best interests of users of OTT communications by ensuring a free and open market between Comms Council UK members and other providers of telephony services to the public;
- To provide a framework which enables members to achieve and demonstrate compliance with regulatory requirements designed to protect the interests of citizen-consumers;

- To ensure there is clear pre-contractual information readily available regarding the terms and conditions on which internet telephony services are provided, including pricing, payment and service availability;
- In the event of any form of dissatisfaction or complaint, to make available an easily accessible procedure so that these can be addressed and resolved in the most speedy and cost effective manner;
- To ensure that Members comply with current legal and regulatory requirements; and
- To enhance the reputation of the internet telephony industry by promoting standards over and above those required by law and regulation.

How the Comms Council UK Code of Practice applies

- 1 This Comms Council UK Code of Practice and members' obligations derived from it apply when a Member is engaged in providing OTT communications services to residential and small business customers in the UK by means of a public packet data network, with inbound and outbound access to and from the PSTN.
- 2 Every Comms Council UK member must subscribe to this Comms Council UK Code of Practice and comply with its mandatory provisions. Members are also encouraged to comply with those provisions that are recommendations but are not mandatory. All Comms Council UK members will receive an electronic copy of the Comms Council UK Code of Practice when becoming members, informing them of their requirement to comply with this code. New Comms Council UK members will also be informed of relevant regulatory and legislative, which they must abide with in order to comply with current guidelines.
- 3 In addition to complying with this Comms Council UK Code of Practice, every Comms Council UK member, where required by regulation, must have their own code of practice¹, which contains information for customers and prospective customers that is specific to that member.

The individual code of practice must include but is not limited to the following information:

- The member's name and address;
- A description of the services it provides;
- That the purpose of the Code is to inform customers of their relationship with the member;

¹ As required by General Condition 14.1

- How to contact the member, with different contact information for different purposes, if necessary;
 - Reference to membership of a dispute resolution scheme;²
 - How to contact Comms Council UK and other relevant organisations, including, in particular OFCOM;
 - That the member is a member of Comms Council UK and subscribes to this Comms Council UK Code of Practice; and
- 3.2 The individual code of practice and the Comms Council UK Code of Practice must be made available to any person who is a customer or who is considering buying services from the member, on request. This must be done by giving printed copies of them to that person or by posting them on the member's website with a prominent link. The Comms Council UK Code of Practice may be posted by means of a link to the Comms Council UK web page containing the Comms Council UK Code of Practice.
- 3.3 To comply with the Disability Discrimination Act 1995, a member must take reasonable steps to enable customers with disabilities to make use of its services and to benefit from its individual Code of Practice. To this end, Members must take reasonable steps to follow accepted practices and standards of accessibility, such as:
- a) Producing all information in an accessible way, including the use of good line spacing, a reasonable sized font and sufficient contrast between type and background;
 - b) Following industry standard accessibility criteria for websites; and
 - c) Making copies of their individual Code of Practice available in alternative formats.
- 3.4 The Comms Council UK Code of Practice will apply to every member's activities in the areas that it covers. A member may adopt stricter standards in its individual code of practice. Where a member does so, it will be bound by those stricter standards.
- 3.5 A member may not opt out of a mandatory provision of the Comms Council UK Code of Practice or reduce or qualify its effect.
- 3.6 In addition to the Codes of Practice, a member shall comply with all applicable legislation and other legal and regulatory requirements in the country in which it operates.
- 3.7 This ITSPA Code of Practice is administered and enforced by ITSPA, acting through its Council and its authorised committees. It does not form part of the contract between a member and its customer except where the contract expressly provides for this.

² As required by General Condition 14.7

General Requirements

4 Lawful operations

- 4.1 Members must not promote the use of their services for illegal purposes and must take appropriate steps to guard against their services being used for such purposes.
- 4.2 Members must, at all times, ensure that they operate lawfully and in full compliance with the prevailing regulatory and statutory provisions applicable to them. This includes, but is not limited to;
 - The Communications Act 2003, the Wireless Telegraphy Act 2006, the Competition Act 1998, the Data Protection Act 2018, the Investigatory Powers Act 2016;
 - The General Conditions of Entitlement including the National Telephone Numbering Plan, any and all Significant Market Power obligations imposed upon the Member by Ofcom and, to the extent appropriate, any relevant Guidance issued by Ofcom;
 - Any European Legislation (such as the European Electronic Communications Code) which remains binding upon the UK as a result of the UK's withdrawal from the European Union.
- 4.3 Members must, at all times, have up to date versions of policy documents required by law, including but not limited to, a Complaints Code, a Non geographic call services Code of Practice, Privacy Policy, Cookies Policy and Security Breach Policy.

5 Awareness

- 5.1 Members must use reasonable efforts to communicate to their staff that their company is a member of ITSPA and to ensure that all relevant staff are familiar with the obligations arising under the ITSPA Code of Practice.
- 5.2 Members should include the Comms Council UK logo on their websites, with a link to the Comms Council UK website.

6 Promotion

Members must use all reasonable endeavours to ensure that their promotional material complies with all applicable legislation and non-statutory regulation, including in particular, that:-

- a) If transmitted by radio, television, teletext, telephone, facsimile or any other form of communication, it observes the provisions of this Comms Council UK Code of Practice and the Codes of Practice published by Ofcom or any other relevant regulatory body in the manner most reasonable and appropriate to the technology employed;

- b) It complies with the provisions of the British Codes of Advertising and Sales Promotion supervised by the Advertising Standards Authority; and
- c) Promotional material and all associated services comply with the Code of Practice applied by Phonepaid Standards Authority when access to them is made via a premium rate telephone call.

7 **Customer information**

7.1 **Service reliability**

- 7.1.1 It is recommended that the following message is included in the terms and conditions and user guides of all Internet telephony services provided to residential and small business customers.

“IMPORTANT INFORMATION: This is a Voice over Data Network service, and as such, it is dependent on your connection to the data network and the data network itself. Your service may therefore cease to function if there is a power failure or a failure in the underlying data network.”

- 7.1.2 Members must take active steps to draw its customers’ attention to any significant differences in service reliability between the member’s service and circuit switched public telephony networks. This must be done at the point of sale and in any user guide issued by the member.

7.2 **Emergency Calls**

Comms Council UK members will have to comply with all regulatory requirements for 999 access and provide all the relevant information to consumers about the availability and reliability of their emergency service access.

8 **Best practice recommendations**

ITSPA recommends that Members adhere to the following best practice guidelines where possible. From time to time, ITSPA will publish Best Current Practice documents (BCPs) on specific issues, following discussion amongst the membership. ITSPA recommends that all members adhere to these publications.

8.2

- 8.3 **Security:** Comms Council UK recommends that Members have systems to protect themselves and their customers from fraudulent use and advise all members to follow appropriate Comms Council UK security BCPs that are produced and updated on a regular basis. Comms Council UK also recommends that Members encourage their customers to read the relevant Comms Council UK security BCPs which are produced or an alternative document produced by the member with substantially the same

content. Comms Council UK members also should have in place an appropriate Security Breach Policy.

- 8.4 Caller ID should be validated against the authenticated user to prevent fraud and spam.
- 8.5 Every Member is recommended to develop an Acceptable Use Policy.
- 8.6 For the avoidance of doubt, breach of any Comms Council UK best practice recommendation set out in this section 8 shall not constitute a breach of the Comms Council UK Code of Practice and shall not cause ITSPA to invoke the Complaints Procedure.

9 **Customer contracts**

- 9.1 Members must ensure that steps are taken to ensure that the person entering into a contract is authorised to represent the customer in entering into the contract for telephone services at the premises.
- 9.2 Order forms and contract forms are to be designed so that the contractual nature of the document is clear to the customer. Order forms and contract forms should therefore contain a statement of the contractual nature of the document immediately adjacent to where the customer signs the document or indicates that he agrees to take service in such a way that the statement cannot easily be obscured or concealed.
- 9.3 Where a face-to-face approach to the customer takes place the customer should be given the information set out in this paragraph, in writing, in a clear and comprehensible manner:
 - (a) Essential information including the identity of the company, its address, telephone, fax and e-mail contact details;
 - (b) A description of the telephone service sufficient to enable the customer to understand the option that the customer has chosen, and how it works;
 - (c) Information about the major elements of the service, including the cost of any standing charges, the payment terms, line rental, key call types and details of "protected or special support" arrangements.
 - (d) The arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision. Where there may be significant delay in the likely date of provision, the customer should be informed of this;
 - (e) The circumstances in which the service may be withdrawn and the procedure for a withdrawal;

- (f) The existence of any right of cancellation and the process for exercising it;
- (g) The period for which the charges remain valid; and
- (h) The minimum period of contract, and minimum contract charges, if any.

9.4 Customers are to be made aware of the existence of this Code of Practice and preferably provided with a summary.

9.5 In the case of internet orders, a well sign-posted hyperlink to the information required by paragraphs 9.1 to 9.4 above must be prominently displayed, with the information being capable of being easily downloaded and printed.

10 **Number Portability**

10.1 All number portability transactions with customers and other service providers must be undertaken in accordance with current legal and regulatory rules and guidelines and also, where appropriate, with any industry agreed processes and procedures.

10.2 Comms Council UK members are encouraged to comply with its Best Common Practice Document on porting numbers between the membership. This BCP outlines ITSPA's recommended policy of enabling the free and open transfer of telephone numbers amongst its members and the protection of a customer's number in the event of an Comms Council UK member ceasing to trade.

The BCP can be found at:

http://www.itspa.org.uk/consultation/070126_portingBCP.pdf

10.3 In the interest of promoting confidence in our industry and to assist quick & efficient porting, it is recommended that Comms Council UK members publish the names of those companies with whom they are able to port numbers both to and from. This information should be readily accessible to potential and existing customers.

11 **Pricing Information**

11.1 Members must ensure that charges for services are clearly stated in relevant promotional material and are readily available to customers. Members must also make clear whether any such charges quoted are inclusive or exclusive of VAT. Where additional charges, for example on-line charges, are payable this should be stated.

11.2 Members must use reasonable endeavours to ensure that textual pricing information relating to charges for services is accurate, up to date, legible, prominent and presented in such a way that does not require close examination.

12 **Complaints Procedure and Sanctions**

12.1 **Members' obligations**

12.1.1 A Member's code of practice for complaints shall include a Dispute Resolution Scheme within the meaning of Condition C4 of the General Conditions of Entitlement.

12.1.2 Every Member shall notify Comms Council UK of a single point of contact ("Contact") for the member authorised to deal with ITSPA complaints. The Contact shall be familiar with the Comms Council UK Complaints Procedure.

12.2 Complaints about breaching the ITSPA Code of Practice

12.2.1 Where a complaint is made that a member has acted in breach of the Comms Council UK Code of Practice, the complaint shall be investigated and adjudicated by Comms Council UK in accordance with its rules and procedures on complaints.³

12.2.2 Comms Council UK may refuse to adjudicate on a complaint where the subject matter of the complaint is the subject of legal proceedings or for any other reason ITSPA sees fit, details of which must be supplied to the complainant.

12.2.3 Where a complaint appears to fall within the ambit of a particular regulatory body or self-regulatory body (for example Phonepaid Standards Authority or the Advertising Standards Authority), Comms Council UK may refer the complaint to that body as well as, or instead of, ITSPA adjudicating on the complaint.

13 Sanctions

13.1.1 Where the Council decides, pursuant to Clause 14.2.1 above, that a Member has breached the Code, the Council may, having taken all relevant circumstances into account:

(a) require the Member to remedy the breach; and/or

(b) require an assurance from the Member, relating to future behaviour, in terms dictated by the Council; and/or

(c) suspend the Member from Comms Council UK without any reimbursement of membership fees in whole or in part; and/or

(d) expel the Member, in accordance with Article 3 of Comms Council UK's Articles of Association.

13.2 Prior to its resolution, the details of any complaint to which the ITSPA complaints procedure has been applied, shall be kept confidential by ITSPA and the relevant member. ITSPA shall impose an obligation of confidence on all complainants as a pre-condition of ITSPA initiating the ITSPA complaints procedure.

14 Changes to the Comms Council UK Code of Practice

14.1 The ITSPA Council may amend this ITSPA Code of Practice by a simple majority vote at a duly convened meeting. Notice of such meeting must be given to all Members of ITSPA at least 28 days in advance and must contain the text of the proposed amendment. The 28 day notice period may be reduced or waived by a two-thirds majority vote of all the Members of ITSPA entitled to vote at general meetings of ITSPA.

To request a copy of the Code of Practice in alternative forms, please call +44 (0)20 3397 3312 or email team@itspa.org.uk

³ ITSPA Complaints Procedure Document

