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# The Unsolicited Electronic Communications (UEC) Code of Conduct

Prepared by National  
Communications Authority

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NATIONAL COMMUNICATIONS AUTHORITY



## Abbreviations Used

- NCA National Communications Authority
- MNOs Mobile Network Operators
- VASP Value Added Services Provider
- CP Content Provider
- UEC Unsolicited Electronic Communications



## DOCUMENT VERSION MANAGEMENT

The space below is provided to keep a track and record details of Amendments of this Document.

<b>No.</b>	<b>Date</b>	<b>Details</b>
1.	November, 2013	First Draft of Document prepared by CCAD and to be reviewed by Regulatory Administration and Legal Divisions
2.	February, 2014	Final Draft for Inputs, Suggestions and Contributions from Stakeholders
3.	July, 2014	Final Draft for Public Consultation
4.	8 <sup>th</sup> October, 2014	Sent to Legal and Regulatory Divisions for inputs
5.	30 <sup>th</sup> October, 2014	A Meeting with CCAD, Legal and Regulatory to consider comments
6.	1 <sup>st</sup> December, 2014	Final Copy of the Guidelines Signed by the Director General



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## **Code of Conduct to Unsolicited Electronic Communications (UEC)**

### **1. Background**

- 1.1 The National Communications Authority (NCA) was established by the National Communications Authority Act 1996 Act 524, now repealed by the National Communications Authority Act of 2008, Act 769 with the mandate to regulate communications by wire; cable, radio television, satellite and similar means of technology for the orderly development and operation of efficient communication services in Ghana.
- 1.2 Following the advent of mobile advertising using text messages, there has been an increasing spate of complaints from consumers with regard to Unsolicited Electronic Communications. In this regard, the Authority, in collaboration with the Mobile Network Operators and Value Added Service Providers met to discuss the issues and came up with solutions to address the menace.
- 1.3 The Authority is also mandated to develop Codes of Practice for Industry use and to protect consumers.

### **2. Purpose**

3. The purpose of this Code of Conduct is to regulate the transmission of Unsolicited Electronic Communications in Ghana in order to:
  - 3.1 Manage the increasing spate of unsolicited electronic communications to consumers;
  - 3.2 Limit the inconvenience of transmitting and receiving Unsolicited Electronic Communications;
  - 3.3 Reduce cost and time spent on unwanted/Unsolicited Electronic Communications from both public and business entities.
  - 3.4 Promote effective use of information and communication technologies in line with best international practices.
  - 3.5 Create a safe communications environment which in turn promotes good and healthy business environment in Ghana.

### **4. How the Code Enhances the Current Regulatory Arrangements**

- 4.1 The Code establishes minimum acceptable practices for Service Providers to follow in relation to:
  - 4.1.1 Providing useful information to End Users on how to minimise Spam;
  - 4.1.2 Dealing with Reports from End Users and Complaints from Consumers regarding Spam;
  - 4.1.3 Interacting with Law Enforcement Agencies on Spam-related matters within the context of the requirement to maintain the confidentiality of an End User's personal information and when such personal information may be lawfully disclosed; and
  - 4.1.4 Technical initiatives.



5. This is considered to be essential to the process of reducing the spate of telephony Spam in Ghana.

#### 5.1 Benefits to Consumers

5.1.1 It is anticipated that adoption of this Code will benefit consumers by establishing practices to reduce Spam volumes and by the receipt of information on how to manage and deal with Spam.

#### 5.2 Benefits to Industry

5.2.1 It is anticipated that the adoption of this Code would reduce Spam volumes and enhance higher levels of Customer satisfaction as well as improve operational efficiency.

5.3 The Code with, examples and explanatory comments has been written in basic English language and framed in such a way as to provide certainty of understanding leading to consistency in their application throughout the industry by Service Providers.

### 6. Anticipated Cost to industry

7. Service Providers will incur some costs in relation to compliance with this Code, depending on each Service Provider's current practices. These costs can be expected in relation to the education and training of staff, development, modification or enhancement of policies and procedures, internal systems and employment of additional staff. Service Providers will also incur costs in reviewing their current privacy management practices to comply with those imposed by this Code.

### 8. Interpretations/Definitions

8.1 Terms, words and phrases used in this Code of Conduct shall have the same meaning as are ascribed to them in the various Communications Laws and other instruments in the Regulatory Framework otherwise the meanings ascribed in the table below shall apply.

Item	Definition
ACT 772	Means Electronic Transaction ACT, 2008, ACT, 772
Address List	Address List means a list comprising one or more electronic Addresses
Address-Harvesting	Means collecting, capturing and compiling of an Electronic address(es) by means of software, tools, technologies or other methods of generating an Electronic Address
Code of Conduct	Has the meaning ascribed to it in Section 28 of the Electronic Communications Act, 2008, Act 775
Consent	Means the consent or approval by a Recipient to receive Electronic Communications, as required by this Code of Conduct issued under it
Customer/Consumer/Subscriber	Means the Recipient of an Electronic Communication sent by a Licensee under its general terms and conditions for the provision of communications Service provided to a customer/ consumer/subscriber



Electronic Address	Means a number or alphanumeric string by which a recipient of an Electronic Communication can be identified and contacted on a particular type of Communications Network, such as an electronic mail address, URL, SIP or a telephone number
Electronic Communications (EC)	Means communications conveyed by means of a communications Network to an Electronic Address. These messages may be sent in the form of Text or writing; Data; Speech, music, or other sounds; or Visual images (animated or otherwise); or Any other form; or any combination of forms mentioned
Existing Messaging Service Contract	Means a contract entered into by a licensee with a Messaging Service Customer to provide Licensee Messaging Services, which contract was entered into before the effective date of this Code of Conduct
Existing Telephony Subscriber	Means a subscriber to whom mobile telecommunications services are provided by a licensee before the effective date of the Code of Conduct
Link in Ghana	Means, with respect to an Electronic Communication, where; The Electronic Communications originates from an individual or company physically located in Ghana, the device used to access the Electronic Communication is located in Ghana; or the Recipient of the Electronic Communication who is physically present in Ghana.
L.I. 1991	Means Electronic Communications Regulations, 2011 (L.I. 19)
Licensee	A Network Operator or Value Added Services Operator also referred to as Content Providers who are duly licensed with or authorised by the Authority and can send electronic communications to network subscribers
Licensee's Own Marketing Electronic Communications	Means Commercial Electronic Communications sent by a Licensee to a Subscriber for the purpose of marketing services offered by the Licensee or an associated company and which message is not related to enhanced network benefits
Licensee Messaging Services	Services pursuant to which Licensee, on behalf of a Messaging Service Customer, sends Electronic Communications simultaneously to more than one Recipient
Licensee's Messaging Services Contracts	Means all of the Existing and New Messaging Services Contract
Messaging Service Customer	Means a customer who enters into a contract with a Licensee for the provision of Licensee Messaging Services
Define NCA	
NCA Laws	Means all communications laws, Legislative Instruments and Policies regarding the regulations of the communications industry and as amended.



New Messaging Service Contract	New Messaging Service Contract means a contract entered into by a Licensee with a Messaging Service Customer to provide Licensee Message Services to that customer, which contract is entered into after the effective date of the Code Conduct
New Telephony Subscriber	Subscriber to whom mobile telecommunications services are provided by a Licensee after the effective date of this Code of Conduct
Non-Transactional Electronic Communications or Promotional/Commercial Electronic Communications	Means a form of electronic communications sent as information, promotion, adverting or marketing and with the purpose of offering to supply products, services or business opportunity for purposes not designated by the NCA
Telephony Subscriber	Subscriber to whom telephony services are provided by a Licensee
Opt-out Notification	Has the meaning ascribed to it in Section 50 of ACT 772
Opt-out Request	Has the meaning ascribed to it in L.I. (1991) (32) (1)
Opt-out Procedure	Means the process under which Consent does not need to be specifically obtained from a Recipient and each Recipient is deemed to have given permission to receive communications from the relevant sender unless that Recipient has expressly specified otherwise
Opt-in Procedure	Means the process under which Consent must be specifically obtained from a Recipient, and if the Recipient does not give that Consent, then the Recipient shall be deemed to have not given permission for that recipient to be sent communications from the relevant sender.
Recipient	Means a person who receives Electronic Communications via or at an Electronic Address
Spam	Means the transmission of unsolicited messages via the telephone network in bulk to any person without the permission of the recipient and which message(s) may be harmful, fraudulent, misleading or illegal
Subscribe Notification	Means a notice by a Mobile Consumer to a Licensee to indicate that the Mobile Consumer has consented to receive non-transactional electronic messaging services as per Terms and Conditions of the service
Subscriber Consent Request	Means any form of communication from a Licensee requesting the permission of a Subscriber to receive Commercial Electronic Communications
Transactional Electronic Communications	Means essential network or service related information sent via electronic communications, for the purposes of enhancing consumer experience for subscribed services designated by the NCA



Unsolicited Electronic Communications (UEC)	Means communications sent to a recipient without obtaining that Recipient's Consent
Unsubscribe Notification	Means a notice by a Mobile Consumer to a Licensee to indicate that the Mobile Consumer does not wish to receive further non-transactional electronic messaging services

## 9. Application of this Code of Conduct

9.1 The Guidelines in this Code of Conduct are issued pursuant to Section 50 (1) of the Electronic Transactions Act, 2008, Act 772 and Regulations 32 (1) of the Electronic Communications Regulations, 2011 (L.I. 1991) and will apply to Licensees, including Telephony Service Providers, VASPs and CPs.

## 10. Scope

10.1 This Code of Conduct sets out in general terms the rules which will apply to all Electronic Communications with a Link in Ghana whether or not those Unsolicited Communications originates from within or outside Ghana.

10.2 Subject to Section 3(a) of the National Communications Authority Act, 2008, Act 769, the Licensees shall be in full compliance with this UEC Code of Conduct six (6) months after the issuance date.

## 11. Description and Types of Unsolicited Electronic Communications being Regulated

11.1 The Code regulates the sending of "electronic communications" within Ghana, and covers commercial electronic communications if the message:

- 11.1.1 Originates in Ghana or any other country
- 11.1.2 Is sent to Ghana or
- 11.1.3 Is sent directly or through a licensed Service Provider to any telephone number in Ghana.

## 12. Types of Messages

12.1 Any form of electronic messages sent over a public telecommunications service to an electronic address, including fax, SMS/MMS, pre-recorded voice/video messages.

## 13. Exemptions

13.1 Electronic Communications which may be exempted under this code are as follows:

- 13.1.1 Person-to-person telemarketing calls;
- 13.1.2 Messages giving warnings of National Disasters

13.2 The following electronic messages are also not considered as Unsolicited Electronic Communications if the electronic messages are sent in response to the recipient's requests where the primary purpose of the messages is:



- 13.2.1 To facilitate, complete or confirm a commercial transaction previously agreed;
  - 13.2.2 To provide warranty information, product recall information and safety or security information with respect to a commercial product previously purchased or used by the recipient;
  - 13.2.3 To deliver goods or services, including product updates and upgrades, that the recipient is entitled to receive under the terms of the transaction previously agreed;
  - 13.2.4 To provide notification or updates in relation to a subscription, membership, account, loan and other licensed services.
  - 13.2.5 To provide information directly related to an employment relationship or a related benefit plan in which the recipient is currently involved, participating or enrolled.
- 13.3 This Code of Conduct shall not apply to any Electronic Communications sent by NCA.
- 13.4 Government Entities are also bound by the Code except in cases bordering on national security and emergency based services.

#### **14. Modification of Obligations**

- 14.1 The NCA may modify the provisions contained in this Code of Conduct as it deems fit.

#### **15. Publication**

- 15.1 The NCA shall publish the Code of Conduct and also circulate same to all licensees and other stakeholders prior to its coming into force. The NCA may also from time to time publish rules on the implementation of this Code of Conduct in specific circumstances- save that such rules shall also be circulated to all licensees and other stakeholders before they take effect.

#### **16. Principles of Consent**

- 16.1 Licensees shall ensure that the following Principles of Consent set out in this section are reflected in any agreement connected with the provision of Electronic Communications which they conclude with their customers.
- 16.1.1 All forms of consents are acceptable so long as the consent can be stored and presented in tangible form when required by the NCA or the subscriber.
  - 16.1.2 Unless otherwise stated in this Code of Conduct, records of Consent shall be retained for the entire period during which the Commercial Electronic Communications are sent to the Recipient.
  - 16.1.3 The process of obtaining consent shall be clear and transparent to the subscriber.
  - 16.1.4 The process by which a consent is obtained may differ and may not be set out in this Code of Conduct. The Licensee has the obligation to ensure that consent, in which ever form obtained, should be transferred onto a portal and a confirmation message sent to the subscriber.
  - 16.1.5 The process by which consent is obtained will always follow an Opt-in Procedure unless otherwise specifically provided in the relevant laws.



- 16.1.6 Where offered, an option for a Recipient to subscribe shall be offered as per the charge advertised for the consumer's information and education. Unsubscriptions from receiving further UEC shall be without charge.
- 16.1.7 The record of a consent required to be retained by a Licensee shall include: date, time, and contents which indicate the Customer's consent, and identity. IP Addresses from where the consent was received include fixed line or mobile telephone numbers in case the consent include the Customer's signature.
- 16.1.8 Electronic Communications shall not be used for the purpose of persuading a Customer/ Consumer to use an Opt-out Procedure to Unsubscribe or Subscribe.

## **17. Unsubscription Services**

- 17.1 All Licensees should maintain "START" and STOP" for activation and de-activation respectively of all non-transactional and promotional Electronic Communications.
- 17.2 The Licensees shall provide accurate sender information in the message of all commercial Electronic Communications.
- 17.3 All non-transactional or commercial Electronic Communications should include an opt-out/unsubscriptions option in a clear and conspicuous manner.
- 17.4 Unsubscriptions should be to the same short code from which the Electronic Communication was sent.
- 17.5 Any investment in the setup of channels for unsubscriptions should not affect the consumer.
- 17.6 Licensees shall be permitted to implement measures that prevent misuse of Subscribe and Unsubscribe options provided those measures are approved by the NCA prior to implementation.
- 17.7 A means by which a Recipient may unsubscribe shall be provided for in all Commercial Electronic Communications.

## **18. Development of a Portal with a Short Code**

- 18.1 All Licensees shall implement a Portal with a Short Code from which subscribers can access at any point in time to view and manage subscription services. Licensees shall send a quarterly reminder to customers informing them of the Electronic Communications Portal with the Short Code for access.
- 18.1.1 The Portal should:
- 18.1.2 be capable of receiving unsubscribe requests at all times during a period of at least 30 days after the message is sent
- 18.1.3 be free of any usage charge to the recipient
- 18.1.4 be convenient to use, readily available and does not contain in itself any information promoting or advertising products, services, facilities, organisation etc.
- 18.1.5 The unsubscribe facility should allow recipients to unsubscribe from all non-transactional or commercial electronic messages to be sent by the sender.



18.1.6 Give subscribers the opportunity to manage their inclusion or otherwise in the Do Not Text/Call Register.

#### **19. Do-Not-Text/Call (DNTC) Registers**

19.1 By registering an individual/organisations subscriber number to a DNTCR, the registrant has in effect opted-out from receiving further and/or any electronic commercial communications at his subscriber number from all senders.

19.2 The Licensees/senders should not send any further commercial electronic communications to the subscriber numbers listed on the DNTCs that has been listed on the DNTC for 90 working days or more, unless they obtain specific consents from the registered user of the subscriber number. In this connection, senders should download the DNTCs to purge their sending lists.

19.3 Consent given to an individual sender by a registered user of the subscriber number overrides the listing on a DNTC. In other words, while a person has listed his/her subscriber number on a DNTC to indicate a "general" refusal to receive promotional/commercial communications, that person can still give consent to any "individual" sender to allow the latter to send messages to him.

19.4 Apart from unsubscriptions, subscribers have the option to register their numbers on the DNTCR for Short messages and pre-recorded messages which will be launched by the NCA.

19.5 When the DNTCR registers come into operation, senders of commercial electronic messages should not send commercial electronic messages to the numbers which have been listed on the DNC registers unless they have duly obtained consent from the relevant recipients.

#### **20. Language requirement for the sender information and the unsubscribe facility statement**

20.1 Sender information and the unsubscribe facility statement should be given in English, unless the recipient of the message has indicated to the sender that such information and statement may be given in another language.

#### **21. Timings and Frequency for sending Electronic Communications**

21.1 All Transactional Electronic Communication should not be sent more than once a day as a means to reduce the incident of subscribers receiving the same message twice or more in a day; the only exception to this is in relation to communication regarding network service disruption and exemptions as detailed earlier in this document.

21.2 Transactional Electronic Communications should only be sent out from Mondays to Saturdays.

21.3 In addition, Transactional Electronic Communications introducing a product or service can be sent only three (3) times in a month, to avoid sending the same content many times and causing nuisance.

21.4 Transactional Electronic Communications should be sent out only from 8.00 a.m. to 7.00 p.m. daily.



21.5 Timings and Frequency for sending Promotional and Non-Transactional Electronic Communications should be sent in accordance with the Terms and Conditions of the promotion or service the customer has subscribed to.

## **22. Reducing Spam**

22.1 Licensees are encouraged to consider and implement best-practice actions that can be taken to assist in the reduction of Spam while retaining an awareness of the risk of False Positives.

22.2 Licensees shall ensure that they do business only with Value Added Service Providers and Content Providers who are duly registered in Ghana and with the NCA.

22.3 Licensees should monitor and take measures to prevent SPAM-like Electronic Communications from being forwarded.

22.4 Licensees shall provide Subscriber(s) with information and resources to help them minimize the level and impact of spam. These include:

22.4.1 the provision of information on the Licensee's Mobile Spam policies and programs;

22.4.2 advice on how to handle incidents of suspected Mobile Spam through their respective customer service contacts, set out in print or on their respective websites; and

22.4.3 The provision of Spam reporting facilities, including their respective customer service contacts, websites or by forwarding suspected Spam to the Licensee via a "short code".

22.5 Whenever it is technically feasible, the Licensee shall provide message handling and message classification features for Mobile Text Messages being sent.

22.6 Licensees shall, where possible, allow their Mobile customers to accept or reject certain types of Mobile Text Messages (including for example Electronic Commercial Communications and anonymous messages) through functions accessed on their mobile handsets' features.

22.7 Licensees shall not send message to any subscriber number listed on the DNC, unless consent has been obtained from the registered user of the subscriber number

22.8 Licensees shall not use misleading subject heading for an electronic message.

22.9 Licensees shall not conceal or withhold the caller line identification information when sending messages or calling to any subscribed number.

## **23. Opt – In Procedures for New Telephony Subscribers**

24. All of the following Opt-in Procedures shall apply to new service subscribed Customers.

24.1 Licensees shall not send Licensees' Own Commercial Electronic communications to a New Subscriber unless a Consent has been received which fulfils all the requirements of this Code of Conduct and those set out in the Unsolicited Electronic Communications General Principles, as applicable.

24.2 The following shall apply to any Licensee wishing to send Licensee's Own Commercial Electronic Communications to a New Subscriber;



- 24.2.1 A Licensee shall send a Consumer Subscriber Request to New Subscribers.
- 24.2.2 The Subscriber Consent Request shall clearly state that the Licensee is requesting Consent from the Telephony Subscriber in order to send Licensee's Own Commercial Electronic Communications.
- 24.2.3 The Subscriber Consent Request may use such terms as "promotions", "offer" and "discount", provided that they do not mislead the New Subscriber.
- 24.2.4 The Subscriber Consent Request may be made by Mobile Text Message or by any other means other than by way of voice calls, whether fixed or mobile.
- 24.2.5 When, pursuant to Section 50 (1) of the Electronic Transactions Act 2008,772 and Electronic Communications Regulations, 2008, L.I. 1991 (32) (1), the Subscriber Consent Request is made by Mobile Communication, the following shall apply:
- 24.2.5.1 The Subscriber Request may only be sent to the Mobile Consumer once. If no response to the Mobile Subscriber Consent Request has been received from the Subscriber within one month of the date on which the Request was sent, the Licensee is permitted to send a second Mobile Subscriber Consent Request.
- 24.2.6 If, following the sending of a second Mobile Subscriber Consent Request, no response is received from the Subscriber within one month of the date on which the second Request was sent, the Subscriber shall be deemed to have decided that he/she does not want the Licensee to send him/her the Licensee's Own Commercial Electronic Communications.
- 24.2.7 The Licensees shall not be permitted to send any further Mobile Subscriber Consent Requests after the second Mobile Subscriber Consent Request within a year.

## **25. Opt – Out Procedures for Existing Telephony Subscribers**

26. All of the following Opt-out Procedures shall apply to all Existing Subscribers;
- 26.1 The Licensees shall notify all Existing Subscribers ("Opt-out Notification") that they are currently deemed to have agreed to receive Licensee's Own Commercial Electronic Communications and that they have the option of deciding that they do not want to receive Licensee's Own Commercial Electronic Communications;
- 26.2 Following the "sending" of the Opt-out Notification, a Licensee shall be permitted to continue sending Licensee's Own Commercial Electronic Communications to an Existing Subscriber unless the Subscriber notifies the Licensees that it does not want to receive the Licensee's Own Commercial Electronic Communications (the "Opt-out Request").

## **27. Records**

- 27.1 For the entire period of time during which Licensee's Own Commercial Electronic Communications are being sent to Subscriber, and for two years after the last of the Licensee's Own Commercial



Electronic Communications was sent to the Customer, the Licensee shall keep records of Consents received and Subscribe Notifications.

27.2 For a period of two years after their receipt from a Customer, the Licensee shall keep records of Opt-out Requests and Unsubscribe Notifications.

## **28. Consumer Information, Advertising and Promotions**

28.1 Licensees shall ensure that Subscribers receive and have access to all relevant information regarding Non-Transactional Unsolicited Electronic Communications by:

28.1.1 Providing comprehensive Terms and Conditions (refer to Appendix 1 for a sample template)

28.1.2 Ensuring that all advertising, marketing and promotion educate Consumers on how to unsubscribe from the service

28.1.3 Ensuring that all advertising, marketing and promotion indicate that Terms and Conditions apply and show where they may be found.

## **29. Sending Unsolicited Electronic Communication Services to Consumers**

29.1 Licensees shall ensure that all the requirements set out in the Code of Conduct are reflected in the terms and conditions of their Existing Messaging Services Contracts and New Messaging Services Contracts, as well as in any acceptable use policies.

29.2 Without prejudice to Section 50 (1) of the Electronic Transaction Act, 772 and subject to Regulation 32 (1) of the L.I. 1991, Licensees shall, within 6 months of the effective date of the Code of Conduct, review and where appropriate, amend and or provide terms and conditions of their Existing Messaging Services Contracts, and any acceptable use policies, to ensure that they are compatible with and reflect the requirements of the Unsolicited Electronic Communications Policy and this Code of Conduct.

29.3 All of the Licensee's Messaging Services Contracts shall provide that the provisions of the Code of Conduct ( including the provisions of the Electronic Communications Act, Act 772, 2008) are incorporated by reference as terms into those contracts, as applicable, and that it shall be a breach of those contracts if the customer breaches any provision of the Unsolicited Electronic Communications General Principles or of this Code of Conduct (including the provisions of the Electronic Transactions Act 772, 2008).

## **30. Monitoring and Protection Obligations**

30.1 Licensees shall monitor their networks for signs of Spam and take immediate practical actions to eliminate them.

30.2 Licensees shall provide practical protection for their Subscribers and provide measures and mechanisms to ensure that.



### **31. Liability of Network Operators (NOs) and Agents in Outsourcing Arrangements**

- 31.1 Licensees who outsource all or part of the sending of Commercial Electronic Communications to a third party, ranging from a simple outsourcing of the actual sending work to the complete outsourcing of the process (e.g. from the identification of potential recipients through the management of address lists to the actual sending of the messages and the operation of unsubscribe facilities) without the consent of the subscribers contravenes section 50 of Act 772 and Reg. 32 (1), L.I. 1991.
- 31.2 Licensees shall bear in mind that any act done or conduct engaged in by an agent or the outsourced service provider will be treated as done or engaged in by the principal (i.e. the network operator).
- 31.3 Licensee shall take all practicable steps under the outsourcing arrangement to prevent their outsourced service providers from breaching this Code of Conduct.

### **32. Implementation and Review**

- 32.1 Subject to provisions under Act 772 and L.I. 1991, all existing Opt-in Procedures, Opt-out Procedures, Subscribe and Unsubscribe facilities offered by Licensees shall be submitted to the NCA for verification and approval within one month of the date of issue of this Code of Conduct.
- 32.2 All future opt-in Procedures, Opt-out Procedures, Subscribe and Unsubscribe facilities which Licensees propose to offer shall be submitted to the NCA for verification and approval not less than one month before they are due to be offered to customers.
- 32.3 The NCA shall continuously monitor the implementation and compliance of this Code of Conduct and may require that information and reports are submitted by the Licensee.

### **33. Customer Education**

- 33.1 Licensees shall educate their subscribers quarterly on Unsolicited Electronic Communications using the same platform.

### **34. Consumer Complaint Reporting and Handling**

- 34.1 This section deals with the handling of UEC complaints to Licensees by consumers.
- 34.1.1 All Licensees shall have a system in place for instant redress of complaints related to UECs.
- 34.1.2 As with other services, Licensees must have a Complaint handling process which complies with the Industry regulations.

### **35. Penalty for Contravention and Enforcement**

- 35.1 The penalties for contravention are as set out in the Electronic Transactions Act, Act 772 and the Electronic Communications Regulations L.I. 1991.
- 35.2 Enforcement Notice: Where the NCA is of the opinion that any Licensee is contravening any provision of the above laws or this Code of Conduct which prescribes rules about sending commercial electronic communications, or has contravened in circumstances that make it likely that the contravention will



continue or be repeated, the Licensee may be served an enforcement notice by the NCA requiring remedial action to be taken as specified.

### **36. Resolution of Disputes and Appeals against Enforcement Notice**

36.1 In the event that the Licensee on whom an enforcement notice is served is aggrieved by the said notice, the Licensee shall submit itself to the disputes resolution and appeal procedures as set out in section 84 to 93 of the Electronic Communications Act, 2008 Act 775 (under Resolution of Disputes).

36.2 Unless otherwise directed, the lodging of appeal shall not have the effect of suspending the operation of the enforcement notice. In other words, the person shall comply with an enforcement notice even though an appeal against the enforcement notice is pending.

36.3 After hearing an appeal against an enforcement notice, the NCA shall uphold, vary or quash the said enforcement notice and make such consequential orders as it deems necessary.

### **37. Effective Date**

37.1 This Code of Conduct shall be effective on the date of its issue as stated below:

Issued by the National Communications Authority of Ghana

  
\_\_\_\_\_  
**PAAROCK VANPERCY**

Director General  
NCA

  
\_\_\_\_\_  
Date of Issue



## Appendix 1

### Sample Format for Electronic Communication Terms and Conditions

	<i>Item</i>	<i>Description</i>	<i>Available Guidelines Features</i>
1	Short Code	State the short code a particular promotion is on at a time.	E.g. 5555
2	Keyword	Marketing/promotional Terminology about product/services.	Bible Service, predict and win, etc.
3	Application	SMS / Voice E. Transaction	<p>These Terms apply to all contracts for the transmission of UEC by (operators).</p> <p>No opt out/cancellation of any of these Terms is binding on the operators unless confirmed by the customer either in writing, call or SMS.</p> <p>The Customer acknowledges that no employee or agent of the operator has any right to send any UEC other than as contained in these Terms.</p>
4	Operator	An operator is herein referred to as any company who by itself or acting on behalf of another company or their agent transmits UEC in Ghana or that has a link in Ghana. E.g. a mobile Network Service Provider/ Content Provider or one who transmits Bulk SMS	The name of the Operator or agent sending SMS on behalf of a network operator
5	Message Frequency/Timings	The number of times the operator is allowed to send UEC	A particular promotion shall not be sent three (3) times in a month.
6	Pricing	Unless customers consent to, operators shall ensure that customers are not charged for unsubscribing, cancellation/opt out of any promotion they were subscribed to.	In a case where consent is obtained, the customer shall be charged for example, Ghc 50p. for each SMS sent or if the customer decides to opt-out of a promotion
7	Limited Liability	The terms and condition should not impact negatively on the rights of customers as provided in the laws	These Terms do not affect the rights, entitlements and remedies conferred by the Electronic Communications Act, Act 775.
8	Duration of Short Code Service	The duration of each promotion using a particular short code should be clearly stated.	
9	Primary Contact	For purposes of customer enquiries and complaints, operators are to state	For the purpose of this promotion, subscribers are to contact the following for Enquires, complaints etc.



		the primary contacts. Postal Address including Physical location, telephone numbers, e-mail address, website etc.	
10	User Opt-In/Subscription	The operator shall provide an option for customers to subscribe into a promotion	Customers can send START to short code 5555 to participate in the promotion.
11	Cancellations/Opt Out	Customers can opt-out any time by sending STOP to short code 5555.	No subscription may be cancelled, modified or deferred without the prior consent of the operator (which is at the operator's sole discretion). If such consent is given the operator shall take immediate steps to cancelled all UEC pertaining to a particular promotion
12	Unsubscription	Customers shall be provided with the option to all promotions that require the sending of UEC	The customer under these terms shall have the right to either by written, SMS or call ask the operator to stop transmitting any form of UEC with the exception of Transactional EC.
13	Customer Care/ Assistance/Complaint Mgt System	Operators shall state clearly the channels of complaints including appellate processes involved	
14	Warranty if applicable	The operator shall be required to provide warranty under the terms of these terms of condition.	All UEC supplied are covered by such warranties as are specified by the operator supplied subject to the service/products standards detailed by the (operator).
15	Privacy Policy		
16	Times for sending message	Under this code operators are to state unambiguously the times for sending UEC.	UES shall only be sent between 8am to 5pm each day including weekends
17	Age Limit	In seeking the consent of their customers before transmitting UEC.	Operators have the responsibility to establish the ages of their customers to avoid transmitting UEC to customers less than eighteen (18) years of age.
18	Disclaimer	For operators to protect themselves from abusive customers, they might provide a disclaimer to that effect.	Please be aware that by subscribing and or not opting out you agree to our Terms and Conditions as set out in these terms of condition, including this disclaimer and our Privacy Policy. This Network is managed by (operators name) and is providing content on behalf of (agent's name) in (location i.e. Accra), Ghana. It is your responsibility to ensure that you access and use our portal and request to unsubscribe, opt out or cancel all or a particular UEC in accordance with the provisions of this code of conduct on UEC in Ghana.



			<p>The material on our portal including all information, text, graphics, images and publications is for information purposes only. Any reliance you place on such information is therefore strictly at your own risk.</p> <p>Every effort is made to keep the portal up and running smoothly. However, (operators Name) takes no responsibility for, and will not be liable for, the portal being temporarily unavailable due to technical issues beyond our control.</p>
19	Contract		<p>The terms of the Contract are wholly contained in these Terms and any other writing signed by both parties. The Contract is deemed to have been made at the operator's place of business where an order was placed and any cause of action is deemed to have arisen there.</p>
20	Termination of Service by Provider	State the circumstances under which a service may be terminated.	<p>If a fugitive or a person with criminal records or pending criminal case (other than a road traffic offence) before any court in Ghana emerges a winner, or if any winner does not agree to the terms and conditions of this promotion, or if once contacted through telephone the winner does not collect the prize within 30 days, the winner would be deemed to have lost the prize and the second runner up shall be called to pick the prize.</p>
21	Governing Law	State the laws that shall govern in the adjudication of grievances	<p>These Terms and the Conditions shall be governed by the laws of Ghana and the parties submit to the courts of Ghana in respect of any dispute arising.</p>