

**Code on Advertising, Marketing and Branding**

**Communications Regulatory Authority**

**Responses to Comments Received on the 2nd Draft of Advertising Code – July 2014  
Consultation**

**22 September 2014**

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

Response to 2 <sup>nd</sup> draft Advertising Code	Article (in relation to) Number as in 2 <sup>nd</sup> draft Code	Subject	Service Provider Comment	Communications Regulatory Authority Response
Vodafone	General comment	Process for complaints	The Draft Code only includes overarching obligations and places greater responsibility on Service Providers to comply, but remains silent on defined complaint or enforcement processes. Vodafone strongly recommends that the Draft Code should give Service Providers guidance on how to lodge complaints.	<p>The Communications Regulatory Authority (the Authority), in light of the comments received, is considering issuing procedures for the filing and handling of complaints relating to possible breaches of the Code. With that in mind an express provision has been added to the Code (Article 84) providing that the Authority may specify procedures in relation to any matter pertaining to the application of the Code, including but not limited to, procedures for the filing and handling of complaints relating to possible breaches of the same.</p> <p>In the meantime and without prejudice to any future specific procedures that may be issued in this area, the Authority would expect that the following procedure would be followed when a Service Provider wishes to file a complaint about a possible breach of the Code:</p> <ul style="list-style-type: none"> <li>- A Service Provider wishing to file a complaint about an Advertisement would do so in writing. The complaint would need to be supported by the relevant evidence (e.g. copy of the newspaper advertisement in question) and a reasoned explanation why the com-</li> </ul>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				<p>plainant considers that the Advertisement breached the Code and the specific Articles thereof.</p> <ul style="list-style-type: none"><li>- The Authority would consider the complaint and where appropriate it would seek clarifications from the complainant or write to the subject of the complaint asking for information and explanations as appropriate.</li><li>- Where the Authority writes to the subject of the complaint it would expect that the subject of the complaint will be in a position to provide the Authority with copies of the advertising material in a form that can be examined by the Authority at its office (e.g. copy of a TV advertisement on a DVD), copies of transcripts and such other relevant information which can be required as part of the investigation and that demonstrate that the Advertisement is compliant with the Code.</li><li>- The Authority, having considered all relevant information and any explanation that may have been offered, would then decide whether the Advertisement is in breach of the Code. Where the Authority becomes satisfied that the Code had been breached, it would take such action as it considers appropriate given, inter alia, the nature of the breach (e.g. whether it affects an individual or a wid-</li></ul>
--	--	--	--	--

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				er group of consumers through a Qatari wide advertising campaign), whether it is a one off breach, if compliance steps had been in place, and so on.
Ooredoo	General comment	Overall view of Draft Code	Ooredoo believes the new Code could lead to unintended consequences and restrict the ability of service providers to offer what would otherwise be consumer welfare enhancing measures.	<p>The Code is based on international best practice and local needs. The Authority does not accept that complying with the Code will restrict the ability of Service Providers to market their products let alone “<i>offer what would otherwise be consumer welfare enhancing measures</i>”. No evidence has been provided for Authority’s consideration to support Ooredoo’s claim that there will be unintended consequences resulting from the application of the Code.</p> <p>Where comments have been made by the respondents to the 2<sup>nd</sup> consultation that merited clarifications or changes to the Code, these have been made.</p>
Ooredoo	General comment	Flexibility – uncertainty within the Code	Draft Code is neither broad enough to allow service providers the degree of flexibility required or detailed enough to eliminate significant uncertainty that exists within the Code.	Compared to the first draft, the Code now provides increased flexibility for Advertisers whilst providing more detailed rules on how the increased discretion in the revised Code may be applied. The Authority considers that this provides an appropriate balance between flexibility and detail, taking into account the state of development of the Qatari market.
Ooredoo	General	Burden of complying	Ooredoo believes that the Authority has sought to place unnecessary burdens up-	The Authority is satisfied that by issuing the Code, it is complying with its obligations as

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

	comment	with the Draft Code	on service providers, which would otherwise be covered by alternative instruments and apply to a wider range of stakeholders, rather than simply service providers.	<p>these arise from the Telecommunications Law, the Executive By-Law, Licenses and the Applicable Regulatory Framework (ARF) with specific reference to the Consumer Protection Policy.</p> <p>By virtue of The Telecommunications Law (Articles 4 - 6) the Authority is mandated, among other things, to safeguard the interests of Telecommunications Consumers. Chapter 10 of the Telecommunications Law on Consumer Protection requires the Authority to set rules that implement Consumer protection measures and govern how Service Providers must deal with Consumers and potential Consumers. Article 50(2), makes provision for the development and implementation of a Consumer Protection Policy which regulates the terms of the provision of services, their approval, publication and advertising.</p> <p>This Code deals with those parts of the above obligations which relate to advertising. However, it must be read in the overall context of the Applicable Regulatory Framework.</p>
Vodafone	2.2(II)	Advertising and presentation of products/ services to vulnerable groups	Vodafone seeks clarity on what the Authority means by “ensuring that Advertisements do not ignore persons with special needs?” and how this can be achieved.	<p>In response to this, the Authority draws Vodafone’s attention to Article 26.3 of the Code and in particular subsection (vi), which describes the scope of the obligation.</p> <p>The requirement to ensure that people with special needs are not ignored should be read in conjunction with the obligations of Advertis-</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				<p>ers as they arise from the Consumer Protection Policy and other applicable rules in this area. By way of example, Advertisers should ensure that Advertising Material is produced in an appropriate format (e.g. in brail/large print) at regular intervals and brought to the attention of people with special needs through appropriate channels. Such channels can be associations for the welfare of people with such needs, for example.</p> <p>The Authority would welcome steps by Service Providers which would allow them to identify customers, with their consent, who would like to receive specially produced advertising material so that targeted advertising may be produced and addressed to them at regular intervals. The main aim of this would be to ensure that all members of the Qatari society become aware and can benefit from new technologies, special offers and special services that may exist.</p>
Vodafone	Part 2 23	Advertising and presentation of products /services	Vodafone find this requirement very broad as Advertisers are defined as Service Provider and Premium Service Providers only. However, if a non-premium independent third party for e.g. a Bank sends an Advertisement to its Customer Base via SMS on Vodafone network, how can the Advertiser (i.e. Service Provider or Premium Service Provider) ensure consumer has all necessary information	The Authority would like to clarify that the current Code does not apply to bulk SMSs where the Advertisement is for a service that is <u>not</u> subject to the Applicable Regulatory Framework. Article 24 specifies that the Code shall apply to all Advertising activities relating to any product or service or any activity that is subject to the Applicable Regulatory Framework. Thus if the SMS is say for a banking service the current Code will not apply to it. However if a

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

			<p>and that the customer makes an informed choice?</p> <p>Vodafone strongly recommends that this clause be specific to Advertiser's products and service only or for third party being used by the Advertiser as mentioned in Clause 24.</p>	<p>Bank is sending an Advertisement for a service that is subject to the Applicable Regulatory Framework through a non-premium SMS then the entity responsible to ensure that Advertisement is accurate is the Service Provider being Advertised and not the Service Provider whose network is being used. This has been made clearer by amending Article 22 of the Code to refer expressly to Article 24.</p> <p>However, the Authority wishes to clarify that if SMSs, or for that matter any Advertising which is within the ambit of the Code, is carried out <u>without the direct or indirect agreement or consent of the Service Provider, such Service Provider will not be responsible for possible breaches of the Code.</u> However, the Authority considers that it extremely unlikely that any 3<sup>rd</sup> party would Advertise the products and services of say a Service Provider without its knowledge or consent, if for no other reason, in that they could be open to legal action by the Service Provider or from those that may be misled etc.. Thus if a Service Provider claims that this situation has arisen (i.e. Advertising outside its control etc) it would have to establish the relevant facts to the satisfaction of the Authority. Namely, these would be that (a) it had not agreed (directly or indirectly), nor consented (expressly or tacitly), nor had it any knowledge or involvement of the activities of the third party, and (b) that the third party is not its employee, distributor, dealer, agent, sub-</p>
--	--	--	--	---

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				<p>contractor or representative, and (c) that once it became aware of the Advertisement it took all necessary steps to stop it. In such cases, unless there is other compelling evidence to the contrary, the Authority will accept that the Service Provider was not responsible for the Advertisement and any possible breaches relating to it.</p> <p>Given the complaints received by the Authority about Bulk SMSs generally, the Authority is considering whether it should issue rules which are applicable to all forms of bulk SMS and other related activities. If it decides to do so this it will be done following appropriate consultation.</p>
Ooredoo	Overarching objectives	Advertising and presentation of products/ services	Ooredoo is surprised by this statement (the need for the Code is a result of complaints relating to advertising, marketing and/or branding), as it is not aware of any significant number of complaints that are related to these specific area, rather most of the complaints that it is aware of are related to operational or billing activities, nothing to do with advertising or marketing.	<p>The Authority notes the comment. However, Ooredoo is not aware of all consumer complaints that are received by the Authority nor the ways by which these are dealt with.</p> <p>Ooredoo's comment does not, therefore, merit further changes to the Code.</p>
Ooredoo	Overarching objectives	Advertising and presentation of products/	The consultation, apart from seeking specific comments also states overarching obligations that the Code seeks to achieve. Ooredoo agrees fully with these overarching obligations: i.e., that advertis-	The Authority notes the comment. However as explained at the second consultation stage, the Code is seeking to balance flexibility and clarity taking into account the state of the industry, the experience from complaints received and

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

		services	ing should be truthful, accurate and not mislead or confuse customers. (Articles 31 - 32). However, Ooredoo believes the detail that is then subsequently contained within Code is too descriptive and/or ambiguous and must be either removed or modified accordingly.	consumer protection issues encountered. Thus the Authority, save where otherwise specified, has not been satisfied that provisions in the Code should be removed or modified.
Ooredoo	Article 21	Restrictive drafting of the Draft Code	Ooredoo finds this Article highly restrictive. According to Ooredoo, it is simply not feasible for any service provider to ensure that all "...distributors, dealers, agents, subcontractors and representatives" comply with the Code.	Authority would like to remind Ooredoo that by virtue of its licenses (Article 4 of the fixed networks and services license and Article 4 of the mobile networks and services license) it is already required to ensure compliance with its license and applicable framework itself and must also cause its officers, subcontractors and agent to comply also. Given that distributors, dealers, etc are acting, at least, as agents of Ooredoo, Ooredoo is already required to ensure their compliance with the Applicable Regulatory Framework, which includes this Code. It is thus a matter for each Advertiser to put the necessary contractual and compliance measures in place (if it has not already done so) to ensure that its employees as well as its distributors, dealers, agents, subcontractors and representatives do comply with its obligations.

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

Ooredoo	Article 21	Consumers rights of redress	<p>The Authority is imposing very stringent requirements on service providers to compensate for the lack of a broader and generic consumer protection law within the country. The Authority is imposing what are quite draconian measures on service providers, which in Ooredoo's view are not feasible; and will restrict the channels for consumers to avail themselves of telecommunications service, as the Code simply incentivises service providers to be integrated entities and reduce the use of distributors, dealer, agent etc. This is because, attempting to assure the adherence of such entities to the Code is near impossible.</p>	<p>The Authority notes Ooredoo's comments. However, it is not satisfied that the Code will restrict the use of distributors, dealers etc. This is because licensees are already responsible for their actions through their licence obligations (Article 4 of the fixed networks and services licence and Article 4 of the mobile networks and services licence).</p> <p>The Authority is also satisfied that the measures are not draconian as Ooredoo considers, but that they are fair and reasonable in ensuring an appropriate level of consumer protection.</p>
Ooredoo	Article 21	Advertising and presentation of products/ services	<p>These channels must be given the freedom to advertise how they wish, if they are to be of value to service providers.</p> <p>Most of these channels, especially the larger entities will also have their own codes of practice and may also be governed by their own sector's codes of practice that may apply more broadly to their sector. Trying to impose this Code on these entities will result in: the entity refusing to work with the service provider; or creating confusion when their own code of practice does not align with this Code.</p>	<p>The Authority notes the comment. However, it notes that the Code does not prescribe how other channels advertise. It specifies obligations for the Advertiser, as defined in the Code, relating to Advertising its products and services that are subject to the Applicable Regulatory Framework so as to ensure the protection of consumers. At the same time the Authority considers it unreasonable that any Service Provider would simply allow any third party to decide how to advertise its products or services – if for no other reason that it cannot ignore the legal, licence and even contractual obligations that can be breached by improper advertising. Additionally, inappropriate adver-</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				tising could harm the image of the Service Provider and more importantly of the telecommunications industry. Ensuring such compliance has not hampered the use of other channels in other countries and the Authority sees no reason why it should be any different in Qatar.
Ooredoo	Article 21	Scope of the Draft Code	Ooredoo recommends that the service provider must simply inform the entity about this Code, for their due consideration. It is unacceptable and inappropriate for Authority to impose this Code upon Ooredoo's channels.	As mentioned before the Code is not imposed on other channels – it is imposed on the Advertisers so that they ensure that other channels advertising their products are doing so in compliance with the Code. It is for this reason that the Authority has allowed for time -120 days (Article 82) – for the necessary steps to be taken to ensure the compliance of such channels through for example training, instructions, monitoring programmes etc and where appropriate, contractual changes.  Ooredoo is also reminded of its obligations arising from its licenses (Article 4 of the fixed networks and services licence and Article 4 of the mobile networks and services licence).
Ooredoo	Article 23	Advertising and presentation of products/ services	Ooredoo considers this statement is too broad. A service provider cannot have complete oversight of all advertising statements made by all Third Parties' and their compliance with this Code.	In response, the Authority draws Ooredoo's attention to the underlined words within Article 22 of the Code; " <i>If an Advertiser <u>has grounds to suspect</u> that any Advertising statements made by a Third Party to a Consumer were not in compliance with the Code, it must, before activating a service or product, contact the</i>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				<p><i>Consumer so as to ensure that...”</i></p> <p>The Authority therefore considers that Ooredoo has misunderstood the extent of this obligation. The Article has been drafted to oblige Service Providers, to act once they have reasonable grounds to suspect that such a situation exists. For example, this could occur when it becomes apparent from the conversation with a customer, when he or she calls the Service Provider to activate the service, that information that he or she was provided with was wrong, or that he or she was misled or was not provided with some important information (e.g. was not informed of an early termination of contract penalty).</p>
Ooredoo	Article 23	Advertising and presentation of products/ services	Ooredoo would need to have sight of and approve all of these entities’ marketing and advertising material in advance. It considers this is just not possible and will lead to the sector grinding to a halt.	<p>The Authority does not accept this view point. It does not consider there is anything strange in requiring an advertising partner to agree the text of the advertisement in so far as it relates to its <u>own</u> products or services. Using the example of the supermarket chain that Ooredoo used elsewhere it would be appropriate for the Service Provider to provide the details of its product/ service that will be advertised and in due time to examine and approve the draft advertising material relating to its product/service. This is a common practice within the telecoms industry when co-promoting/advertising with or using third parties etc.</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

Ooredoo	Article 23	Application of the Draft Code	Ooredoo considers that whilst the Code in theory may sound like a good idea, it cannot be practically applied, and in the process will severely damage the sector, which is not in the interest of the sector, consumers or the country. It would also be contrary to the objectives contained within the Telecommunications Law (Article 2 of Chapter 2).	<p>The Authority considers that the Code, as drafted, is clearly within the wording and spirit of the Telecommunications Law, including but not limited to Article 2 of Chapter 2.</p> <p>The Authority also considers that it has not seen any concrete evidence that the Code is not workable.</p>
Ooredoo	Article 24	Application to Third Parties	Ooredoo considers that imposing this new draft Code to Third Parties is unacceptable and impossible to manage. A Third party should not need to be "...aware of the relevant provisions contained in the Telecoms Law, The Executive By-Law, License Provisions, the Consumer Protection Policy and this code and that they comply with them." Ooredoo therefore recommends that Article 24 point (c) should be removed from the Code in its entirety.	<p>Authority refers Ooredoo to the reply provided above to its comments re Article 21 of the draft Code.</p> <p>Third Parties, as these are defined in the Code, clearly fall within the meaning of sub-contractors and agents and as such Ooredoo is already required to ensure their compliance with the Applicable Regulatory Framework, which includes this Code.</p>
Ooredoo	Article 24	Underlying provisions of the code	Ooredoo cannot manage currently technical control or restrict a customer's Bulk SMS business, because the service provides the ability to send the bulk SMS as and when they wish. However, it is possible to ensure that Bulk SMS customers can be contractually bound to the timing of such messages in the future, subject to contractual renewal and termination claus-	Ooredoo is referred to the reply provided to Vodafone above (Part 2 23) as to the applicability of the Code to bulk SMSs.

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

			es.	
Ooredoo	Article 26	Definition of "Indirect Advertising"	Ooredoo finds "Indirect Advertising" too subjective and seeks more precise language, with examples that help provide clarity to this aspect of the Code.	The expression "indirect advertising" covers activities which, although not set out explicitly as Advertising, may have the same purpose or effect. These, by way of example alone, would include agreements for product placement in a television show, sponsoring events or activities, a website providing information about the products or services etc.
Ooredoo	Article 27.2(ii)	Terms and conditions	Ooredoo believes this Article is highly subjective. It questions how the Code can identify if an advertisement containing prices, exclusions, references to Terms and Conditions etc, can appear at such a speed that the average viewer should be able to read it, when this will be dependent on the screen size, the eye-sight of the individual, the speed with the individual can read. It argues this is especially the case given that Qatar is a nation made up of many nationalities and languages.	<p>The Authority does not accept the concern as this has to be based on the average targeted customer and the media used. Further, similar requirements are common place elsewhere. By way of indication alone, and other things being equal, text would be expected to roll or scroll across a TV screen at the rate of 5 words per second. Where the text contains 10 words or more, an additional period of 3 seconds must be added to the total period. To calculate the appropriate duration for text which rolls or scrolls across the screen, the approach adopted usually is to first determine the total number of seconds the caption would need to be held if it was a static caption. The moving caption should take this amount of time to move across the screen, at a steady and even rate plus the additional 3 seconds if it is 10 words or more.</p> <p>Also by way of indication alone, and other things being equal, in terms of the size of the</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				<p>text on TV, a text height of 14 television lines or more would normally be appropriate. In no circumstances should the text be less than 12 television lines in height.</p> <p>Similar requirements may be found in the UK, for example, in the Advertising Guidance Note 1 – On-screen text and subtitling in television advertisements.</p>
Ooredoo	Article 27.2(ii)	Advertising and presentation of products/ services	Ooredoo considers that limiting advertising to the use of the constant tonality defeats the very purpose of using advertising as a medium to engage with people.	<p>In response, the Authority draws Ooredoo’s attention to the actual wording of the Code (Article 26.2) that specifies:</p> <p><i>“Television/Radio – ... <u>any information concerning prices, exclusions, references to terms and conditions, disclaimers or other similar limitations or information</u> must .. or (b) if spoken must be easily audible, discernible and easily understood using the same voice, the same tonality as the rest of the Advertisement and in a way that is clear to the Average Consumer.”</i> (emphasis added)</p> <p>The tonality relates to any information concerning prices, exclusions, references to terms and conditions, disclaimers or other similar limitations or information and is to ensure that is not spoken in such a low voice that is not audible or missed because of loud music etc. Thus the Authority does not accept the comment – the remainder of the advertisement need not be delivered using the same tonality.</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

Ooredoo	Article 27.2(iii)	Compliance with Draft Code	Ooredoo is a professional organisation that prides itself on its customer service. All representatives are trained professionally in all aspects of the products and services it offers, as deemed relevant prior to starting their positions within the organisation and facing customers. All relevant points in this Article are already covered in practice by Ooredoo.	The Authority notes this comment and welcomes it. However, it does not justify removing this requirement from the Code.
Ooredoo	Article 27.3(ii)	Advertising and presentation of products/ services	<p>Ooredoo would find it impossible to advertise or promote a new smartphone (as an example) under these proposed guidelines when customers purchasing the smartphone actually make buying decisions based on the technical specifications of the device.</p> <p>Ooredoo therefore argues the Authority would need to specify what is meant by 'technical words' and list these in order for this Article to be useful. In addition the use of the words "...average consumer without technical background and/or special capabilities or expertise" is so ambiguous.</p>	<p>The Code provides that the language used – including jargon if any – must take into account the main target audience of the Advertisement (Article 26.3). Given the nature of the Code, what constitutes technical jargon would also depend on the product advertised as well as the customer being targeted.</p> <p>As such, the Authority considers that the concerns expressed by Ooredoo are without foundation. A customer wishing to buy a Smartphone or a 4G LTE service may very well be interested in the technical specifications of the product and in such cases pertinent technical information would need to be included. The Authority therefore does not accept the comment.</p>
Vodafone	27.3	Advertising and presentation of products/	Vodafone provides prices for all its Premium Services such as Ring Back Tunes. However telecommunication services are allowed to be sold only to consumers who	The Authority notes the comments and welcomes the practice of Vodafone. However the Authority does not accept that it is appropriate to remove the requirement given that it only

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

		services	are 18 years and above with valid Qatari ID. Customers' consent or opt in is required before receiving the premium service. There is therefore no need to provide a warning on premium services to the consumer to seek approval from the person paying.	applies when the target or likely target of the Advertisement is an audience that may require additional protection. Thus, although the subscriber may have provided his/her consent for accessing Premium Services, it is possible, that the telephone line is being used by more than one person in the same household. Thus charges may be incurred by members of the household other than the person paying the bill. The Authority would like to point out that the Code applies to all relevant services (whether provided through fixed or mobile technology) and although it may be easier to control access to a mobile phone this may not be the case for a fixed line at home which is available for all the family to use.
Ooredoo	Article 27.3	Use of the term 'average consumer'	Ooredoo believes it is more appropriate to use in the Code the concept of a reasonable person, rather than 'average consumer' which is what is currently proposed in the Code.	<p>The Authority notes the comment. However it considers that the term "average consumer" is an appropriate term for the Code. For the sake of clarity and in view of the comments received the Authority has decided to define the term in the Code as follows: <b><i>Average Consumer:</i></b> means a Consumer or Customer, who is reasonably well informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors, as well as any characteristics that a specific group may have that may make it particularly vulnerable to unfair commercial practices".</p> <p>The Authority is satisfied that that its choice of the term "Average Consumer" is appropriate</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				and takes into account international best practice from other jurisdictions such as the EU and UK e.g. EU Directive 2005/29/EC and Office of Fair Trading v Purely Creative Ltd [2011] EWHC 106 (Ch).
Ooredoo	Article 28	Flexibility in Draft Code	Ooredoo welcomes an attempt within the Code that seeks to introduce flexibility, as this will limit stifling of the sector, whilst allowing consumers to be protected through the overarching aims.	The Authority notes this comment.
Ooredoo	Article 31(i)	Compliance with Draft Code	Ooredoo states it agrees with this Article and always strives to implement best practice to ensure that its advertisements are fair, truthful and accurate.	The Authority notes this comment and welcomes Ooredoo's approach.
Ooredoo	Article 32(i)	Cultural sensitivity	Cultural offences are highly subjective in any country. However, Ooredoo believes these are compounded within Qatar given the many different nationalities that reside within Qatar. Whilst as a statement of intent, such language is seen as useful, for it to be applied and monitored, the Authority would need to be more prescriptive and provide specific examples of what constitutes advertisements which would be deemed to be culturally sensitive.	<p>The Authority recognises that many different nationalities reside within Qatar, as is the case with a number of other countries. The Authority also recognises that given this more care is required by Advertisers so as not to offend. However it is impossible and counterproductive to be more prescriptive as to what is and what is not culturally sensitive. This can only be examined on a case by case basis.</p> <p>The Authority would also like to remind Advertisers that the Code (Article 27) clearly states that when an Advertiser is in doubt as to whether something will be in compliance with the Code, it should always err on the side of</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				caution to ensure compliance.
Ooredoo	Article 32(ii)	Description of a service	Ooredoo tries to ensure that consumers are provided all the relevant terms and conditions associated with the product or service, so that the consumer can make an informed decision before making the purchase and entering into a contractual relationship. However, Ooredoo believes the statement “all the necessary information” is too broad and very subjective; and that the Authority must again define precisely what is meant by such a statement.	<p>What is the necessary information that must be supplied depends on the service or product. In addition the Advertiser, in deciding what is “necessary information,” must have regard to its obligations arising from the Telecommunications Law, the Applicable Regulatory Framework and other legal and regulatory obligations it may have (whether telecoms related or not). By way of indication alone, Advertisers are reminded of the related obligations that they are already subject to under Article 51 of the Telecommunications Law and the Telecommunications Consumer Protection Policy.</p> <p>Thus, Service Providers are already obliged to ensure that sufficient information is supplied to consumers. The Authority does not consider that the requirement is either too broad or subjective but it is one that depends on the facts of each case/Advertisement etc.</p>
Ooredoo	Article 32(ii)	Consumer definition	Ooredoo believes that the Authority must use the concept of a ‘reasonable person’, as is done in a number of jurisdictions in the context of consumer protection laws and codes of practice. A reasonable person would not enter into a contractually binding relationship unless they were convinced it was the right product or service for them. Ooredoo recommends that	Ooredoo is referred to the reply above concerning the term “Average Consumer”.

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

			the Authority adds such a provision in the Code.	
Ooredoo	Article 32(iii)	Consumer obligations	<p>Ooredoo considers that this Article is highly subjective. Ooredoo finds this Article too ambiguous, with little in terms of appropriate guidance.</p> <p>Ooredoo proposes to remove this language “<i>The Advertiser is required not to take advantage of the Consumer’s lack of experience or knowledge...</i>” completely from the Code. The only thing that Ooredoo can do is to provide the customer with a description of the product or service, and a copy of the terms and conditions. It is unclear what additional information must be provided in order to satisfy this Article.</p> <p>For the Article to be relevant and meaningful, the Authority would need to specify how to measure a customer’s experience or knowledge with respect to a particular product or service at any given point in time.</p>	<p>Authority notes the comment but it does not consider that it is appropriate to remove the relevant Article or amend it. The Advertiser is required not to take advantage of the Consumer’s lack of experience or knowledge in purchasing in telecommunications services. Obviously when producing an Advertisement targeting a group of Consumers this will be done on a more generic level. Where the Consumer is at a shop then the Advertiser is able to discuss with the individual customer their needs and provide the necessary information in a manner that does not take advantage of the Consumer’s lack of experience etc.</p> <p>The Authority welcomes the fact that Ooredoo does everything feasible to ensure that its customers make informed decisions with relevant information. Given this, Ooredoo should have no problems in complying with this provision in the Code.</p>
Ooredoo	Articles 37 and 38	Lack of clarity in the provisions of the Draft Code.	Whilst Ooredoo concurs with the intent of the Article, it believes that the Authority does not provide sufficient certainty around what the phrase, “denigrate another Service Providers’ quality of service...” would mean in practice.	The Authority does not consider it necessary to provide further guidance in the Code as to what “denigrate” means. Like all other words that are not ascribed a special meaning they must be given their natural meaning - in this case being to speak damagingly of, criticise in

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

			<p>As long as the service provider can substantiate the claim, Ooredoo does not feel the need to restrict such practice and therefore recommends this Article be reworded.</p>	<p>a derogatory manner; criticise unfairly; defame; etc. The Authority Code is not the only instrument that does not define denigration. For example, Ooredoo’s attention is drawn to the UK Business Protection from Misleading Marketing Regulations 2008/1276 or the EU Directive 2005/29/EC.</p> <p>If Ooredoo is looking for examples as to how this has been defined or applied in other jurisdictions, by way of example alone, it is referred to the following:</p> <p>“denigrate” is defined as a statement that includes a disparagement in the form of an adverse value judgment or a damaging statement without any factual basis. Criticising more than objectively necessary. Köhler/Bornkamm (eds), UWG, 29th run, 2011, § 6</p> <p>“Denigration consists in casting discredit on a competitor by spreading spiteful information about a competitor himself... his products, services or prices, commercial policy etc. Denigration may result from the dissemination of untrue information ...” Competition Laws Outside the United States, Volume 1 S Harris – France.</p> <p>In addition Article 37 of the Code is very clear that comparisons with other competitors or other Service Providers’ products or services, are permissible. However such Advertisements must refrain from <u>judgments and opinions</u> about the Competitor or its products or ser-</p>
--	--	--	--	---

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				<p>vices <u>unless those assertions are objective and are based on facts that can be substantiated and have not been unfairly selected.</u> Furthermore, any comparison should be fair, accurate and address either comparable offers or comparable services.</p> <p>The Authority therefore does not accept that the Code needs to be reworded.</p>
Ooredoo	Article 68(b)	Lack of clarity in the provisions of the Draft Code	Ooredoo believes this Article is again too broad and does not allow service providers the flexibility required to target different consumer segment. Ooredoo recommends that the statement be redrafted to reflect its intent, which it believes is not to mislead customers about who is providing the service or product.	The Authority does not accept the comment. Because of the observations received during the first round of consultation on the Draft Code and in particular from Ooredoo, the Authority has allowed flexibility to target different segments of the consumers etc. Thus, Article 67 should be read in conjunction with Article 64. If the requirements of Article 64 are met, and provided that there are no other legal or regulatory impediments, then different brands, logos etc can be used.
Ooredoo	Article 70	Domain Names	Ooredoo recommends that the Code is clear that the statement on the relevant web page that details “who is legally responsible to the Consumer for the provision of the service and what the branded service represents” could be provided in various sections within the website, e.g. in the ‘about us’ page and that decision is left to the service provider	The Authority agrees with the comment of Ooredoo provided that the information is included in a manner and in a place that the Average Consumer would expect to find it, such as the ‘about us’ page that Ooredoo suggests. The Authority has therefore decided to amend the Code (Article 69) so as to state that the information may be included “on the relevant Primary or appropriate Secondary Web Page” and to define as “Primary Web Page” of a site the landing page, that is, the page that its

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

				owner specifies as the page to be displayed when a visitor first enters that web site, and “Secondary Web Page” any optional page for the site used to present content on a web site other than the Primary Web Page.
Ooredoo	Article 71	Lack of clarity in the Draft Code	Ooredoo considers that Article 71 is subjective and the Authority should be specific about the number of calls, emails and SMS being sent to each consumer. The expression “is non-intrusive” does not help.	The Authority does not consider it appropriate to specify a number as the obligation is per Advertiser and would depend on circumstances at a given time. Thus Advertisers must exercise their judgment as to what is appropriate. However, without prejudice to any future decision, the Authority would expect that, save for in exceptional circumstances, SMSs should be limited to no more than one per customer per day. If however at a later stage the Authority considers that these provisions should be made mandatory, say because of complaints etc, it may do so following appropriate consultation.
Ooredoo	Article 72	Lack of clarity in the Draft Code	Article 72 states "acceptable in the State of Qatar as being hours that are suitable to call a third party that is not a close friend or relative". Ooredoo recommends that for this Article to be useful, that actual hours are specified, otherwise it should be removed from the Article given the high degree of subjectivity contained therein. Ooredoo sends SMS between the hours of 7 am and 8 pm, however there are exceptions for Ramadan as an	The Authority has decided, for the time being, to allow each Service Provider to set those hours. Without prejudice to any future decision, the Authority does not consider unreasonable the sending of SMSs between the hours of 7 am and 8 pm, save for the Ramadan period where different arrangements should be made.  If however at a later stage the Authority considers that mandatory provisions should be made, say because of complaints etc, it may

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

			<p>example, or where a customer's subscriptions which falls outside of these hours.</p> <p>Ooredoo customers have the options to opt out by calling 111 (Ooredoo call centre), using the Ooredoo application on their phone or SMSing 'STOP' to 92600.</p>	do so following appropriate consultation.
Ooredoo	Articles 74 - 79	Issue with Draft Code	<p>The 120 days provided within Article 83 of the Code so that Service Providers take all necessary steps to ensure that Premium Service Advertisers comply are noted by Ooredoo but it states that in some instances the flexibility, to be able to take those steps, is dependent on contract renewal clauses.</p>	<p>The Authority notes this comment. However, given that this is a legal obligation of the Service Providers it is satisfied that they are legally entitled to mandate the equivalent changes to those using their network. This principle applies to all legal and regulatory obligations that may be mandated on Service Providers from time to time. Although some Service Providers expressly provide for this in their contracts the Authority is satisfied that this is not necessary for the changes to be made. If Service Providers encounter any specific issues relating to any specific Premium Service Provider or any Third Party they may raise the specific issue with the Authority for advice. This however will have to be done in good time and in any event well before the expiry of the relevant period provided for by Article 82 of the Code.</p>
Ooredoo	Articles 74 - 79	Premium SMS	<p>Note that Ooredoo customers have a number of options to block premium SMS's including calling 111 (Ooredoo call centre), using the Ooredoo application on</p>	<p>Authority welcomes the fact that customers have this option and would welcome steps to increase awareness of this among consumers.</p>

## Responses to Comments Received on 2<sup>nd</sup> Draft Advertising Code – July 2014 Consultation

			their phone or SMSing 'STOP' to 92600.	
--	--	--	--	--