

# **The National Newspapers' Safe Home Ordering Protection Scheme Limited**



## **The Rules**

# THE NATIONAL NEWSPAPERS' SAFE HOME ORDERING PROTECTION SCHEME LIMITED

## THE RULES

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## INTRODUCTION

"HOME SHOPPING ADVERTISING" may be described as:-

"referring to that form of trading in which the trader and his customer, having been brought into communication with one another by means of advertisement, conduct their business at arm's length, by means of the post or through some other intermediary, and not face to face at the trader's place of business".

To the customer it means that they can acquire goods not available to them locally, whilst to the home shopping advertiser the advertisement is his shop window and he therefore has special responsibilities. Consumers cannot see and examine goods prior to purchase and have to rely not only on the advertiser's description of the goods but also his integrity.

The national newspapers, realising that they had a moral responsibility to prevent abuses of home shopping advertising, conceived The National Newspapers' Mail Order Protection Scheme ("the Scheme"). The Office of Fair Trading was consulted and under an agreement between the national newspapers (through the office of the Newspaper Publishers' Association), the Institute of Practitioners in Advertising and the Incorporated Society of British Advertisers, the Scheme was introduced on a voluntary basis in 1975. Fully supported by home shopping advertisers, advertising agencies and the national newspapers, the Scheme endeavours to enhance the image of home shopping for the benefit of all concerned. Similar schemes are operated by the Professional Publishers Association (formerly the Periodical Publishers Association), Newspaper Society, and the Scottish Newspapers.

The Scheme then became known as The National Newspapers' Safe Home Ordering Protection Scheme ("SHOPS") to take account of the changes in the market regarding the ordering of goods by telephone and the internet.

The Scheme is managed and operated by The National Newspapers' Safe Home Ordering Protection Scheme Limited ("SHOPS") which is a company limited by guarantee. Nominees appointed by the Newspaper Publishers' Association and the Direct Marketing Association (UK) Limited sit on the Board of Directors of SHOPS.

Contributions are made by national newspapers, advertising agents and advertisers participating in the Scheme and paid into a fund ("the Central Fund") which is used to reimburse those persons ("Readers") who answer home shopping advertisements in national newspapers associated with the Scheme and who suffer financial loss as a result of the advertiser becoming the subject of liquidation or bankruptcy, or ceasing to trade.

The purpose of these Rules is to set out the regulations regarding the operation of the Scheme which appear in the following sections.

## SECTION 1

### THE SCOPE OF THE SCHEME

#### Definitions

##### Rule 1

"Approved Advertisers"	means advertisers which have been accepted into the Scheme pursuant to Section 4;
"Approved Advertising Agency"	means those advertising agencies which are retained by Approved Advertisers;
"Associate Member"	means the publisher of a National Newspaper which is associated with the Scheme pursuant to Section 3;
"Central Fund"	means the fund into which contributions are made by Associate Members Approved Advertisers and Approved Advertising Agencies and which is used to reimburse Readers who suffer financial loss as a result of Approved Advertisers becoming Insolvent, or ceasing to trade;
Digital Publication	<p>means a digital publication published by a National Newspaper in digital format which:</p> <ul style="list-style-type: none"><li>(i) is access protected by password;</li><li>(ii) is opted in by the end user downloading the relevant application (or similar);</li><li>(iii) has specific issues and is published periodically like print products;</li><li>(iv) can be viewed off line; and</li><li>(v) has a beginning and an end;</li></ul> <p>But excludes the website of a National Newspaper.</p>
"Directors"	means the Board of Directors of SHOPS from time to time;

"Insolvent"	means (in the case of an individual) becoming bankrupt or entering into a composition or arrangement with his creditors and (in the case of a company) entering into liquidation whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction) suffering the appointment of an administrator, administrative receiver or receiver or entering into a composition or an arrangement with its creditors;
"SHOPS"	means The National Newspapers' Safe Home Ordering Protection Scheme Limited;
"National Newspapers"	means a national newspaper associated with the Scheme pursuant to Section 3 Rule 15 ;
"Payment with Order Advertisements"	means those direct response advertisements appearing in a National Newspaper (either in its own pages or in inserts and catalogues) to which the Reader responds by making payment in advance of the goods being received by him;
"Reader"	means those who respond to advertisements (which are approved by the Scheme) appearing in a National Newspaper;
"Secretariat"	means the Secretariat of SHOPS;
"the Scheme"	means The National Newspapers' Safe Home Ordering Protection Scheme managed and operated by SHOPS.

### **Criteria for reimbursement by the Scheme for an Advertisement**

#### **Rule 2**

SHOPS shall reimburse a National Newspaper from the Central Fund subject to the following criteria:

- 2.1 The advertisement shall either be displayed in the body of a National Newspaper itself (or its supplements) or in a loose insert advertisement or catalogue inserted by a National Newspaper on behalf of the Approved Advertiser,
- 2.2 Without prejudice to Rule 2.1, the circumstances in Rule 2.1 shall include (but not be limited to) such advertisements appearing in Digital Publications of the National Newspapers displayed in smart phone or tablet versions (including but not limited to androids, Ipads, Kindle Fires and similar devices) of

National Newspapers provided that the advertisements are booked under the control of the National Newspaper in question. For example (but without prejudice to the foregoing)), advertisements in the form of “pop-ups” which are not controlled by the National Newspaper are not covered by the Scheme.

- 2.3 The advertisement shall describe the advertised product giving details of the price and a means of communication to respond and shall offer the facility to Readers to purchase the advertised product directly in advance with a payment either by way of cheque/postal order or by providing charge/credit/debit card details either on a coupon or by telephone order or internet order or have the ultimate effect of the Reader paying for goods in advance prior to receipt of the goods (*e.g. send no money now*), provided that the aggregate reimbursement to the national newspapers shall not exceed the amount standing to the credit of the Central Fund from time to time
- 2.4 An advertisement shall not come within the provisions of Rule 2.3 if, in order to ascertain the description of the advertised product or its price, another step is involved in the ordering process (“second stage selling”) including (but not limited to) in the case of ordering via a website, clicking through to other web content.

### **Protection**

#### **Rule 3**

The Central Fund of the Scheme shall be used by SHOPS to reimburse a National Newspaper, which has itself reimbursed a Reader, where the Reader has, by making a payment in advance, suffered financial loss resulting from an Approved Advertiser becoming Insolvent or ceasing to trade. In appropriate circumstances reimbursement may be made direct by SHOPS to Readers

### **Non Approved Advertisers**

#### **Rule 4**

Where an advertisement is carried by a National Newspaper and the advertiser is not an Approved Advertiser or the advertiser which would otherwise be an Approved Advertiser has either:

- 4.1 not been accepted at the date the advertisement ran; or
- 4.2 had its acceptance suspended at the time the advertisement ran, unless the National Newspaper demonstrates to the Managing Committee that the advertiser was approved at the time of the booking of the advertisement or insert and it was not possible to cancel the publication of the advertisement or the insert;

then the National Newspapers shall not be entitled to reclaim reimbursement from the Central Fund of the Scheme, notwithstanding that the SHOPS logo may have appeared unlawfully in the advertisement.

### **Reimbursement to the National Newspapers by the Central Fund**

#### **Rule 5**

Where the Scheme applies and reimbursement to Readers has been made either direct by SHOPS or by the particular National Newspaper responsible for the advertisement to which the Reader responded, the Scheme shall use the Central Fund (subject to the proviso in Rule 2) to either reimburse the Reader direct itself, or to reimburse the National Newspaper in question with such sum as it reimbursed the Reader, subject to the following conditions:

- 5.1 The Reader registers a claim, either in writing or by telephone, to the National Newspaper, not earlier than 30 (thirty) days from the Reader's order nor more than 4 (four) months from the publication of the advertisement or such other periods as the Chief Executive of SHOPS and the Managing Committee may determine in any specific circumstances, and returns the claim form promptly to the Advertising Manager of such National Newspaper; or in the case of plug plants, the Reader registers a claim within 3 (three) months of the delivery date stated in the advertisement or such other periods as the Chief Executive of SHOPS and the Managing Committee may determine in any specific circumstances.
- 5.2 The Reader forwards with his claim form the original cancelled cheque, postal order, counterfoil, charge/credit/debit card slip or some such other primary evidence (such as the original letter from the Reader's bank or the original charge/credit/debit card company's statement) to protect the Scheme from multiple claims from the same Reader in respect of the same advertisement. In the absence of original documents, photocopies of any such documents shall be acceptable.
- 5.3 The National Newspapers provide the Secretariat with the original letter and enclosures forwarded by the Reader to that National Newspaper or otherwise make arrangements for the Secretariat to visit the National Newspaper in question to validate the claim.
- 5.4 Upon receipt of reimbursement from the National Newspaper in question the Reader assigns the debt due to him by the Approved Advertiser to such National Newspaper in such form as the Directors may from time to time approve and upon such assignment the National Newspaper shall assign the debt in question to SHOPS in such form as the Directors may from time to time approve.

#### **Rule 6**

The sum reimbursed by the Central Fund to the National Newspaper in question referred to in Rule 5 of this Section may include sums paid by the National Newspaper in question to the Reader in respect of costs and expenses incurred with posting and packaging and costs

involved in providing evidence of purchase (e.g. bank charges) but it shall not include any sums paid by the National Newspaper in question to the Reader in respect of any other costs and expenses whatsoever (including but not limited to legal costs) incurred by such Reader in making a claim under the Scheme.

### **Limited Protection (Purchase by Credit Card)**

#### **Rule 7**

In the following circumstances there is limited protection under the Scheme: -

- 7.1 in circumstances when Section 75 Consumer Credit Act 1974 applies (e.g. payment by *credit card*; e.g. Visa or MasterCard), or similar or other protection is provided by agreement between the card provider and the card holder (whether in respect of a credit card or otherwise), and the cost of the goods is over £100.00 (that is £100.01 or more per item) (or as otherwise provided at law or by agreement) but not more than £30,000.00 (or as otherwise provided at law or by agreement) claims should be made to the card company concerned. If only part of the payment is made by card in such circumstances the Scheme shall not be liable for any balance of the payment made by some other means and such balance shall remain the responsibility of the card company. Where the cost of the goods is £100.00 or less (or as otherwise provided at law or by agreement) claims should be made as referred to above in Rule 5;
- 7.2 where a series of items is to be despatched in sequence at stated intervals and Readers are asked initially to pay for the first item of the series and then pay on invoices sent before, or with, the despatch of the remaining items, the first payment only will be protected by the Scheme.

### **Exclusions to the Scheme**

#### **Rule 8**

The following are not protected by the Scheme: -

- 8.1 those advertisements offering the sale of perishable items of any description (i.e. those goods which would be expected to perish within 6 (six) months of the receipt by the Reader);
- 8.2 those advertisements offering used goods;
- 8.3 those advertisements asking Readers to send for catalogues, brochures or details of products, which are supplied free or for a price of £5.00 or less or products for a price of £1.00 or less;
- 8.4 those advertisements asking Readers to send no money in circumstances where the goods are received before payment of the invoice relating thereto;

- 8.5 sales from catalogues, brochures etc, inserted with goods ordered in response to advertisements covered by the Scheme;
- 8.6 sales from catalogues, brochures etc which have not been inserted in a National Newspaper;
- 8.7 purchases of goods by Readers visiting retail premises in response to an advertisement or part of an advertisement;
- 8.8 offers of membership of clubs, magazine subscriptions, theatre tickets, film processing;
- 8.9 services;
- 8.10 those advertisements offering goods on a self-liquidating or other premium basis, e.g. where Readers have to send remittances for the products together with coupons or other proof of purchase from products obtained through retail outlets;
- 8.11 those advertisements offering goods on approval or for 'Cash on Delivery' or where a Reader is required to send a small remittance to cover carriage costs only;
- 8.12 those goods supplied to Readers on a "home approval" or "home trial" basis;
- 8.13 "Readers Offers"; that is, Payment with Order Advertisements published by Associate Members.

## **SECTION 2**

### **THE ADMINISTRATION OF THE SCHEME**

#### **The Appointment of the Operations Director**

##### **Rule 9**

The Directors shall from time to time appoint the Operations Director of the Scheme who shall be responsible for the day to day operation and management of the Scheme.

#### **The Appointment of Committees**

##### **Rule 10**

Pursuant to the Articles of Association of SHOPS the Directors shall appoint such Committees as they think fit to administer the operation of the Scheme. In particular the Directors may appoint a "Managing Committee".

##### **Rule 11**

The Managing Committee and any other such Committee shall be subject to the overriding control of and accountable to the Directors.

#### **The Managing Committee**

##### **Rule 12**

- 12.1 The Managing Committee shall consist of advertising executives nominated by those newspaper publishers which are Associate Members ("Newspaper Publishers").
- 12.2 The Operations Director of the Scheme or his nominated delegate shall be Chairman of and report to and seek instructions from the Managing Committee. He shall also be responsible for convening meetings of the Managing Committee.
- 12.3 Subject to guidelines laid down by the Directors relating to any particular matter:
  - 12.3.1 the Managing Committee shall meet every (2) weeks to consider applications by advertisers and terms of Approved Advertisers to participate in the Scheme for which a quorum shall be (3) three including the Chairman of the Meeting; and
  - 12.3.2 the Main Managing Committee shall meet as required on the same day as one of the meetings referred to in clause 12.3.1 to consider and

make specific recommendations relating to the Scheme for which the quorum shall be (5) five including the Chairman of the Meeting,

and in either case, in the event of an equality of votes, the Chairman of the Meeting shall have a casting vote

- 12.4 The Managing Committee shall be responsible for referring the Minutes of their meetings, main policy recommendations it has made relating to the Scheme, specific policy recommendations it has made and any problems of whatever nature arising during their meetings to the Directors who shall be the final arbiters of the matters so referred.
- 12.5 In the event of a significant matter being raised during the deliberations of the Managing Committee, the advertising executives shall consult with the advertising directors of the National Publishers which nominated the advertising executives.
- 12.5 The Assistant to the Operations Director of the Scheme shall be the Secretary of the Managing Committee.

## **SECTION 3**

### **ADMISSION OF PUBLISHERS OF NATIONAL NEWSPAPERS AS ASSOCIATE MEMBERS**

#### **Rule 13**

Subject to the provisions of the Articles of Association of SHOPS from time to time the publisher of one or more national newspapers shall be eligible to become an "Associate Member" of the Scheme in respect thereof.

#### **Rule 14**

14.1 A national newspaper is defined as:

14.1.1 a newspaper title of a member of the Newspaper Publishers Association Limited accepted into membership in respect of that title;

OR

14.1.2 a newspaper (whether morning or evening) distributed nationally throughout Great Britain and produced and published in England or Scotland or Wales on one or more days every week;

OR

14.1.3 a newspaper (whether morning or evening) produced and published on one or more days every week in, and distributed throughout, London.

For the purposes of alternatives 14.1.2 and 14.1.3 above of this definition:

"newspaper" shall mean a printed publication for sale containing the general spectrum of national and international news of a topical and contemporary (in the sense of "up-to-date") nature ("newspaper"); and

for the avoidance of doubt "national newspaper" shall exclude a newspaper which consistently contains to a material extent news of a particular region.

#### **Rule 15**

Upon the acceptance of an application to become an Associate Member it shall pay SHOPS the sum of £10,000 for the first newspaper title published by it to be covered by the Scheme and an additional £5,000 for each subsequent newspaper title so covered or such sum or sums as the Directors may determine from time to time.

## **SECTION 4**

### **APPLICATION BY ADVERTISERS TO PARTICIPATE IN THE SCHEME**

#### **Payment of Fees**

##### **Rule 16**

The Directors shall from time to time determine the fees to be paid by each advertiser and by each advertising agency to participate in the Scheme.

#### **Information and Assurances etc to be provided by Advertisers and Advertising Agencies**

##### **Rule 17**

The Operations Director and the Managing Committee shall from time to time determine the information, assurances, undertakings, indemnities, and warranties (if any) that shall be given by an advertiser and (if applicable) an advertising agency before the advertiser is permitted to participate in the Scheme and the form in which such matters shall be given.

#### **Investigation of Application and Consideration By the Managing Committee**

##### **Rule 18**

- 18.1 Advertisers seeking to participate in the Scheme must complete the prescribed application forms and provide the related financial information and where applicable examples of the copy to be used for advertisements. All applications must be accompanied by the payment of fees appropriate to the level of anticipated advertising spend as determined from time to time by the Directors.
- 18.2 Each application by an advertiser and (if applicable) its advertising agency shall be examined and investigated under the control of the Operations Director who shall take such further steps as he thinks necessary to ensure as far as is reasonably possible that the applicant has and can continue to comply with the standards laid down from time to time by the Directors to protect the Reader.
- 18.3 The Operations Director shall oversee the preparation of a report in respect of each application and present such report with his recommendations to the Managing Committee.
- 18.4 The Managing Committee shall consider the application and the recommendations of the Operations Director and decide whether the application be accepted, deferred or rejected.
- 18.5 Each applicant shall be notified of the decision of the Managing Committee.

- 18.6 The Managing Committee shall inform the National Newspapers whether or not an advertiser's application has been accepted, although such acceptance shall not bind the National Newspapers to accept and publish the related advertisements.
- 18.7 The Managing Committee shall also inform the National Newspapers of those advertisers' applications which have been deferred or rejected.
- 18.8 If any National Newspaper accepts an advertisement for publication which has not been accepted by the Managing Committee or has been deferred or rejected by the Managing Committee the National Newspaper in question shall do so entirely at its own risk.

### **Conditions of Acceptance**

#### **Rule 19**

- 19.1 In the event that financial assurances or safeguards are required by the Managing Committee it shall have regard to the form that such assurances or safeguards should take including (but not limited to):
- 19.1.1 a Bank Guarantee either in the form already approved by the Operations Director/the Scheme's solicitors or in an amended form as the circumstances require provided such amended forms are approved by the Operations Director/the Scheme's solicitors;
- 19.1.2 a Deposit of Bond either in the form already approved by the Operations Director /the Scheme's solicitors or in an amended form as the circumstances require provided such amended forms are approved by the Operations Director /the Scheme's solicitors;
- 19.1.3 a Deed of Guarantee and Indemnity from the parent or associated company of the advertiser;
- 19.1.4 an Insurance Bond.

## **Deferment of Applications**

### **Rule 20**

- 20.1 The Managing Committee may defer the application of any advertiser to participate in the Scheme which in its absolute discretion does not meet the standards for acceptance laid down by the Directors or if in its absolute discretion the advertiser may act to the detriment of, contrary to the interests of, or might in any way prejudice the Central Fund, the Readers or the Scheme.
- 20.2 Where deferral is stipulated by the Managing Committee for 6 (six) months or more the Managing Committee shall write to the applicant refunding any fees paid and informing him of the reasons for the deferment

## **Rejection of Applications**

### **Rule 21**

- 21.1 The Managing Committee may reject the application of any advertiser which in its absolute discretion does not meet the standards for acceptance into the Scheme laid down by the Directors or if in its absolute discretion the advertiser may act to the detriment of; contrary to the interests of, or might in any way prejudice the Central Fund, the Readers or the Scheme.
- 21.2 The Managing Committee shall write to the applicant refunding any fees paid informing it of the reasons for the rejection and its right of appeal if it wishes to challenge the decision of the Managing Committee.

## **Deduction for Costs**

### **Rule 22**

The Managing Committee reserves the right to make a deduction for costs in refunding any fees in connection with any deferral or rejection of an application to participate in the Scheme.

## **Appeals**

### **Rule 23**

An applicant whose application has been deferred or rejected may appeal in writing to the Appeal Panel which shall be constituted by at least 2 (two) of those members of the Managing Committee who did not decide to defer or reject such application.

## **Changes**

### **Rule 24**

- 24.1 The notification of changes in the management structure and business of an Approved Advertiser generally shall be made by the Approved Advertiser in such form and with such information as shall be approved by the Operations Director and the Managing Committee. The Operations Director shall re-examine and re-investigate (if necessary) such changes.
- 24.2 If the Operations Director receives such information which is materially different from any former information given by the Approved Advertiser, he shall refer the matter to the Managing Committee which shall consider continued acceptance of the Approved Advertiser. The Managing Committee may thereupon confirm acceptance or defer or reject the Approved Advertiser's continued participation in the Scheme whereupon the provisions of Rules 21 and 22 (with the necessary changes being made thereto) of this Section shall apply to this Rule 25.

## **Update of membership**

### **Rule 25**

- 25.1 The annual review of an Approved Advertiser to participate in the Scheme shall be made by the Operations Director and shall be submitted by the Approved Advertiser in such form and with such information as shall be approved by the Operations Director and the Managing Committee. The Operations Director shall re-examine and re-investigate such renewals.
- 25.2 The Operations Director shall at his discretion refer material changes arising from annual renewals to the Managing Committee which shall consider continued acceptance of the Approved Advertiser. The Managing Committee may thereupon confirm acceptance or defer or reject the relevant Approved Advertiser's continued participation in the Scheme whereupon the provisions of Rules 20 and 21 (with the necessary changes being made thereto) of this Section shall apply to this Rule 25.

## **Suspension**

### **Rule 26**

The Managing Committee shall be entitled to suspend and (if necessary) expel an Approved Advertiser's participation in the Scheme if in its absolute discretion the Approved Advertiser does not meet the standards for continued acceptance into the Scheme laid down by the Directors or if in the absolute discretion of the Managing Committee there is reason to believe that the Approved Advertiser is acting to the detriment of; contrary to the interests of or might in any way prejudice the Central Fund, Readers or the Scheme.

## Logo

### Rule 27

- 27.1 An Approved Advertiser shall *embody prominently* the Scheme's logo/symbol in all its Payment with Order Advertisements (including those in inserts and catalogues) except in those circumstances where an Approved Advertiser has been suspended or otherwise informed that it should not use the logo.
- 27.2 This logo may not be employed in those advertisements which do not seek payment in advance of receipt of goods, e.g. those advertisements which merely invite Readers to send for brochures, catalogues and similar literature or refer to deferred payment even though the advertiser is an Approved Advertiser. For the avoidance of doubt "send no money now" advertisements (referred to in Rule 2.3) should contain the SHOPS logo
- 27.3 An Approved Advertiser must not employ the Scheme's logo/symbol in its general advertising literature, nor on its headed notepaper nor in any publication which is not associated with the Scheme. In small advertisements an alternative logo/symbol embodying the phrase "SHOPS PROTECTED" is permitted.
- 27.4 Advertisers are advised that misuse of the Scheme's logo/symbol is a criminal offence.

## **SECTION 5**

### **COMPLAINTS AND REIMBURSEMENT TO READERS**

#### **General**

##### **Rule 28**

The Scheme only applies in the event of an Approved Advertiser becoming insolvent, or ceasing to trade. In any other event where the Reader has cause to complain that an Approved Advertiser has failed:

- 28.1 to supply goods ordered; or
- 28.2 to refund money if goods have been returned; or
- 28.3 to replace goods,

then the Reader should write to the Advertising Manager of the National Newspaper in which the advertisement was inserted.

## **SECTION 6**

### **REPLENISHMENT OF CENTRAL FUND**

#### **Rule 29**

The Directors will decide from time to time when and how to replenish the Central Fund and make recommendations to the Associate Members accordingly.