



## Construction Products Association Consultation

### Code for Construction Product Information

### Submission from CIBSE

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**This response is provided on behalf of the Chartered Institution of Building Services Engineers.**

It is provided in free form as the Institution is not a manufacturer or user of products, nor are we a “trade association” – we are a chartered professional body and licensed by the Engineering Council UK to register professional engineers. As such none of the survey forms directly applies to us. I have therefore taken the most relevant questions from the forms and responded to them, as well as offering commentary on topics not raised in the forms but which the institution considers to be highly relevant.

**About the Chartered Institution of Building Services Engineers (CIBSE)**

The Chartered Institution of Building Services Engineers is an internationally recognised professional body established by Royal Charter that exists to ‘support the Science, Art and Practice of building services engineering, by providing our members and the public with first class information’ The provision of accurate, reliable trustworthy information is a fundamental raison d’etre of CIBSE and indeed of any professional body.

CIBSE is the primary professional body and learned society for those who design, install, operate and maintain and refurbish the energy using systems, both mechanical and electrical, which are used in buildings. They are responsible for the systems installed in buildings that make them habitable, providing ventilation, cooling, light, lifts, hot and cold running water, fire protection and building control systems. CIBSE members work in the public and private sectors and in higher education. CIBSE has over 20,000 members worldwide.

CIBSE is licenced by the Engineering Council UK for the registration of Chartered Engineers (CEng), Incorporated Engineers (IEng) or Engineering Technicians (EngTech). Registration is only available to those who meet the appropriate level of qualification and professional skill under the internationally recognised Engineering Council Standards.

As an Institution CIBSE publishes Guidance and Codes which provide best practice advice and are internationally recognised as authoritative. The CIBSE Knowledge Portal, makes our Guidance available online and is the leading systematic engineering resource for the building services sector. Currently we have users in over 170 countries, demonstrating the breadth of the CIBSE membership. Our members therefore have a pervasive involvement in the use of engineering systems in the built environment, with a key contribution to both safety and sustainable development. Our focus is on adopting a co-ordinated approach at all stages of the life cycle of buildings, including conception, briefing, design, procurement, construction, operation, maintenance and ultimate disposal.

CIBSE is also a commercial publisher of construction information in a variety of media, which includes print and online advertising and sponsorship of Institutional activities by leading companies. As such we are at the very sharp end of dealing with marketing and promotional material which seeks to portray the products or services promoted in the most favourable light whilst we seek to maintain the integrity of that promotional activity. At present we are seeing a significant upsurge in dubious promotion of “air cleaning” technologies, for example. **We therefore see the Code as an essential development to bring order to the current marketing landscape for built environment products and services.**

**In making this response to the consultation we wish to acknowledge the significant effort put into the development of the Code and be clear that our comments are intended as constructive contributions to further improving, strengthening and clarifying the Code. We are therefore willing to assist in its further development if that would be considered helpful.**

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## CONSULTATION RESPONSE

**There are several topics which do not seem to be as well integrated into the code as we would like to see.** In part this is because of our particular viewpoint, which we recognise is not familiar to the drafting group, but is nonetheless pretty significant in the overall application of the Code. These topics are detailed here with a brief explanation.

### 1. Relationship to the Code of Advertising Practice (CAP)

We believe that it should be absolutely explicit that compliance with the Code for Construction Product Information (CCPI) **must** be predicated on total commitment to the CAP. The Code already contains clear commitments upon advertisers and marketeers to providing accurate information that can be justified. Whilst the creation of a separate body to oversee the CCPI is a necessary and indeed essential element of the overall package, it is also essential that the CCPI works in complete harmony with the CAP to avoid any playing off or gaming of differences. It would be appropriate to flag this in relation to clause 3 of the code.

### 2. Application of the Code to third party marketing or PR agencies

It is essential that all parts of the construction product information supply chain subscribe to the Code. Again, explicit reference to this expectation should be included in the Code, as part of the eleven robust ways of working. The best way to do this would be to supplement the text in the box at the top of page 5 of the consultation draft to say “this includes all third parties who work with manufacturers to supply, distribute and promote product information.” Get it in right at the top – this means everyone delivering information.

Agencies might be implied by the reference to third parties in the preamble at the top of page 8, but its too vague as it stands and needs to be explicit, all embracing and crystal clear.

### 3. Accuracy, ambiguity, clarity and completeness

There is a significant issue underlying the Code. As well as being relevant to the five key requirements of clarity, accuracy, currency, accessibility and not being ambiguous, information needs to be at the very least adequate, or possibly sufficient, but best of all complete.

Clause 3 talks about avoiding ambiguous wording, and that is really important. The code must put a stop to the use of “tested to BS1234” and then not admitting that the product failed the test (possibly repeatedly!)

More significantly, the use of manufacturer information by third parties is a significant topic. Its not clear on what legal basis some of the provisions in Clause 3 may be introduced. If a distributor operates an online catalogue or directory, then the manufacturer may have no control over that. Perhaps the solution is for the CPA and perhaps a wider industry grouping to engage with the distributors about online directories.

One very specific and important detail is that directories often create “product codes”. These are not standardised. And so where a contractor is seeking to standardise their product data they are at the mercy of the various “product codes” allocated by the distributors and even by some of the schemes identified (preferentially and perhaps anti-competitively) in clause 7 of the code. Whilst the codes may be allocated clearly, accurately and transparently and be up to date, the variations between distributor databases creates ambiguity and potentially confusion at best, and at worst creates significant costs

for those seeking to adopt information exchange standards. Unique product codes are necessary to create complete and unambiguous information and it is not at all clear how the Code will achieve that.

The retail sector has got this fairly well organised with a not for profit entity responsible for unique identifiers for products in place of competing databases. A similar arrangement is needed for construction and perhaps looking at what retail does would be a very good starting place. Its much more of an issue for the building services sector than for bulk fit and forget products because of the need to maintain services, to carry out routine servicing and replacement of smaller components, to deal with faults and failures using the correct spare and replacement parts and the fact that services do not last the life of the building in many cases. If we want to fully benefit from the opportunities that digital information management and exchange offer then this needs to get cracked.

### **Specific feedback on the draft Code**

#### **Definition of “Manufacturer”.**

CIBSE operates in the field of building services. Our members are involved in heating, ventilation, lighting, facades, lift systems, public health systems supplying hot and cold water and removing wastewater, as well as rainwater drainage systems. All of these involve the combination of products into a system. So, for example, a ventilation system may consist of air handling units, ductwork, fire dampers, and room terminal devices, as well as controls. It is perfectly feasible to obtain legitimate products bearing an accepted conformity mark for use in all or part of the UK which are made by at least five different manufacturers. Clearly each of the five or more parties manufacturing the products are manufacturers. But what about the systems integration? Is the proposed definition of the manufacturer intended to include the designer of the system and the installer?

From an ongoing operational and safety perspective those responsible for operating the building need to know about the design and operation of the ventilation system, as well as needing accurate information about the various products that make up the system. It needs to be very clear where the definition of manufacturer stops in this respect.

#### **Access to information**

It's a fundamental requirement of the Code of Advertising Practice that all claims can be substantiated. However, we are seeing very poor practices emerging in relation to products claimed to function as “air cleaners” for which little reliable and credible verification of the claims is offered. In one case a company claims to offer a device which removes viral material from the air and refuses to disclose any information without recourse to a Non Disclosure Agreement! Again, the full disclosure of all relevant information is an essential element of the CCPI.

#### **Clause 1 – minimum requirements**

In light of recent evidence at the public enquiry, then the requirement for a technically competent person to sign off information needs to be more detail here. When signing off Product Information the technically competent person needs to be presented with both the Product Information and all the supporting evidence.

Given that there is to be a commitment to disclose the supporting evidence, it cannot be more onerous to provide the individual offering technical sign off with the full set of information to be disclosed, along with a reasonable expectation that they undertake some due diligence and do not just sign off as a rubber stamping exercise. If they are going to rely on the professionalism and technical judgement of

others, then there needs to be some sample checking and some evidence of a professional discussion about the justification for offering the package that can be part of the audit trail.

## Clauses 4-7

**Use of the term “classification”.** This term can have two meanings. It can refer to the classification of a product against a performance benchmark based on the performance of the product in a standard test. “Class 0” fire resistance is one topical example.

The second use of the term classification refers to classification of information about a product, using an information classification system that complies with ISO 12006-3, such as Uniclass in the UK. This is not the same in any way, and there is a need to ensure that the distinction between product classification against standard test criteria is kept completely distinct from information classification.

Replacing references to “classification” with references to “Product Classification” would be the ideal approach.

**Certification.** It needs to be clear to all users of the Code that ISO 17065 certification applies to the body who provide third party certification of at least aspects of the product performance for the manufacturer and is not for the manufacturer themselves.

The key point in Clause 4 is that whatever is claimed must be backed by evidence. And accurate. So the current example of the global brand who have a technology that can, under lab test conditions, deactivate 99.6% of viral material in a solution in a test chamber smaller than the average toilet closet and then claim that they have a product that can deactivate 99.6% of viral material against pictures of services equipment for installation are convey accurate information but achieving a completely misplaced understanding of the limitations and real life performance of the product, which can only be established by trawling their website for the information on what testing they did and how they did it. At least its there, unlike some others.....

**So Clause 4** becomes really significant. Again, for fit and forget products that do not use energy and do not need to deliver heat, or cooling, or air movement, or light, or certain acoustic or air quality performance, it may be less complicated. For building services it is more complicated and will be a challenge. Which is not to say that it cannot be done, nor that it should not be done, but it will need engagement with the building services manufacturing and user communities.

**Clause 5.** Is there really any need to separate clauses 4 and 5? The principles are the same – what are you claiming? On what objective basis? Who says? What is the evidence? And what are the limits on the intended application and what is the relevance of the test data to that application?

**Clause 6.** Without wishing to be too critical, its important to recognise that this clause exposes the total lack of input to the Code from the building services sector. There are a long list of likely additional information for any energy using product, including required energy input, rated output, efficiency, noise, fluid flow supply and rate requirements, illumination characteristics, compliance with other regulations such as F-gas, electromagnetic compatibility, low voltage, water supply, pressure equipment, gas appliances, machinery and potentially others. This extends the complexity but if the Code is to be for Construction Products then those complexities have to be addressed.

**Clause 7.** This code is not the place to promote Lexicon and ETIM. The code should be completely neutral on the systems used and should not promote some over others. These references are not equitable and are arguably anti-competitive.

**Clause 8.** Whilst clause 8 may need some addition to the installation, operations and maintenance sections, they much better reflect the full range of building services products and systems than clause 6.

**Clause 9.** There are British and International standard covering durability and service life and these also provide detailed methodologies for making claims about these properties of products. The standards – BS EN 15686 and BS 7543 should be referenced.

**Clause 10.** This is fine as far as it goes – but there needs to be a reasonable level of service at the end of the line or email, too. And for urgent possibly safety related issues, some commitment to a speedy response.

**Clause 11. Training needs to apply to related third parties, not just the manufacturer.** In particular, marketing and PR people need training in the real capabilities of the product so that they are less likely to make unrealistic claims in marketing.

**Glossary. The glossary and indeed the whole Code is not the place to promote Lexicon or ETIM**

Other legal competitors are available and if this is a neutral industry Code that is genuinely “independent and not for profit” then it is a misuse of the Code to promote these services at the expense of others. Inclusion of CPA favoured services will undermine the ability of others to support the Code as we would wish as whilst we wish to promote the Code we may have alternatives to Lexicon that we have invested significantly in and which the building services community considers more appropriate. Please just leave them out and save a lot of bother.

Replace them with a definition of “**Certification Body**”.

Is a **Declaration of Performance** part of the UKCA mark? If so it needs adding.

How the Code will work.

In principle this is reasonable, but CPIL will need some subject matter expertise to assess the technical evidence, particularly for more complex services products. We have recently had cause to investigate advertising brought to CIBSE for “air cleaning” products, which we have not considered to be clear, ambiguous or supported by independent and relevant test data. It’s a non-trivial task and needs expertise. There will need to be a robust appeals mechanism as refusing to accept a manufacturer into the scheme will potentially constitute a basis for an action against CPIL for defamation – and those most likely to be refused participation are the least likely to play nicely and most prone to litigate.

The scheme is going to need to be very robust over complaints and transparent about how it handles the outcomes to deliver confidence that it’s a robust scheme and not a cosy club.

The supporter idea is fine, but CIBSE, for example, could not sign up on those terms. We work with firms that are not likely to be eligible to join the scheme at present, even if they wish to subscribe to the principles, such as building services consultancies. The supporter concept needs to be broader.

In the longer term we are keen to limit advertising and sponsorship to those who join the Code, but we cannot do that immediately, that needs a transition period.

There also needs to be a serious conversation about how the Code can work with the Professional Bodies to support the Code and to promote the use of and reliance on the Code by many of our members and the businesses they work for.

A final question is how the Code is to gain traction. It really does need cross industry support, which must include the building services sector who have largely, so far, been outside the discussions. But it also needs to include other professionals, and there has to be a role for clients and customers.

We need to see a clear commitment from government that they will work towards only procuring products from suppliers who sign up to the Code and commit to apply the principles, so that not making that commitment really costs those who will not commit to provide accurate, clear, accessible, current and unambiguous information about the products that they want to sell into the public sector at taxpayers expense.

Further notes relating to the User survey, which is probably the least inappropriate for a professional body.

Q10. We suspect that full compliance may take a number of months for building services related products, which have detailed product data sets.

Q11. The Code will cost. That cost will only be accepted if the Code offers tangible benefit, or if non-participation risks significant levels of business. Unless there is widespread support for the Code then it may be difficult to get widespread buy in. Again, government support may be very helpful here – and should cost government little.

Q12. I hope that the narrative above covers these in much more detail.

Q13. It will depend on the details and on wider uptake.

Q14. On its own it may not make much headway. As part of a wider programme of cultural change it stands a chance of helping to move things.

Q15. No, not meaningfully and I hope that I have provided commentary above.

Q16. I am not at all sure that this is going to be enough on its own. Its going to need some teeth.

Q17. Yes, but then it depends on whether there is evidence of a reasonable and robust response.

On the remainder I think I have covered the points in my narrative and we are an unusual user group.

**END**

Please do not hesitate to contact me for more information on this response. CIBSE wishes to support the further development of the Code following this consultation.