

Direct Marketing Code of Practice

TELEMARKETING
INTERACTIVE TELEVISION
DOOR TO DOOR
CONTENT OF COMMERCIAL COMMUNICATIONS - GENERAL
ENFORCEMENT OF THE CODE - THE DIRECT MARKETING AUTHORITY
CATALOGUE AND HOME SHOPPING
GENERAL OBLIGATIONS
CONTENT OF COMMERCIAL COMMUNICATIONS - SPECIAL RULES
DIRECT MAIL
EMAIL MARKETING
CODE OF PRACTICE
SMS MARKETING
DIRECT RESPONSE TELEVISION AND RADIO
FIELD MARKETING
PROMOTIONAL OFFERS
FAX MARKETING
ON-LINE MARKETING
FILM AND CUSTOMER SERVICE
DATA
INSERTS

3RD EDITION



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Direct Marketing Code of Practice Update

The list below will state the current section dates for the DM Code of Practice – these are the sections that you should have in your current binder and also PDF copies. We have also listed the previous dates so that you can see when the changes were made. Should you need help with this please email codeofpractice@dma.org.uk

Section Date	Previous Date	Current amended	Section amended	Reason for update
Contents	May 2003	Oct 2004		
1	May 2003	Oct 2004		
2	May 2003	Oct 2004		
3	May 2003	Oct 2004		
4	May 2003	Oct 2004		
5	May 2003	Oct 2004		
6	May 2003	Oct 2004		
7	May 2003	Oct 2004		
8	May 2003	Oct 2004		
9	May 2003	Oct 2004		
10	May 2003	Oct 2004		
11	May 2003	Oct 2004		
12	May 2003	Oct 2004		
13	May 2003	Oct 2004		
14	May 2003	Oct 2004		
15	Oct 2004	Mar 2006	15.3	Regulatory changes
16	May 2003	Oct 2004		
17	May 2003	Oct 2004		
18	May 2003	Oct 2004		
19	May 2003	Oct 2004		
20	April 2004	Oct 2004		
21	Aug 2004	Mar 2006	21.3, 21.14, 21.26, 21.27, 21.32	Regulatory changes

Appendices

1	May 2003	Oct 2004		
2	May 2003	Oct 2004		
3				
Index	May 2003	Oct 2004		



Foreword

FOREWORD

The Chairman of the Direct Marketing Association

I am delighted to introduce this third edition of the DMA's Direct Marketing Code of Practice.

This revised Code replaces the 1997 edition and is far more comprehensive in its coverage, reflecting a larger and more diverse direct marketing industry. The industry has grown significantly in recent years: UK consumers now buy goods and services worth over £60 billion through direct marketing channels, representing over £11 billion spend on direct marketing services.

All the marketing and media channels, such as email and SMS marketing, together with field marketing and door-to-door, are now included within direct marketing's scope of activity, as well as the traditional disciplines like direct mail, press and telemarketing.

Legislation, such as the Data Protection Act 1998 and Distance Selling Regulations 2000, has come into force and the revised Code fully reflects these requirements.

As the industry continues to grow in terms of size and diversity, it is the responsibility of the DMA, as the most powerful and representative industry voice, to act in the interests of the companies involved in direct marketing activities, and to set standards of service which consumers can trust.

The Code of Practice, together with the independent Direct Marketing Authority and the DMA's Compliance Unit, represents the DMA's total commitment to effective self-regulation. The Code, which is mandatory for all members, gives guidance on every aspect of direct marketing activity and sets standards to be achieved – standards that will give both consumer and companies, full confidence in the service they can expect to receive from DMA members.

I believe that our Code will, as well as providing an accessible business handbook for best practice and legal guidance, give DMA members a real competitive advantage - and if you are in any doubt about its significance, just consider what kind of companies you would prefer to do business with.

Quite simply, it is a powerful statement of our commitment to the very highest standards, in the best interests of our customers and the direct marketing industry itself.



David Coupe
Chairman of the Direct Marketing Association

FOREWORD

The Information Commissioner

I am glad to have been asked to provide a foreword to this revised edition of the Direct Marketing Association's Code of Practice, much of which concerns the proper use of personal data.

Formal regulation is only part of the picture and I am aware that the necessarily finite resources of my office will only stretch so far. Therefore, I am keen to encourage representative bodies to produce guidance tailored to the needs of their industry. I recognise the efforts made by the Association to promote respect for the wishes of consumers, amongst its membership in particular, but also within the industry generally.

This revised edition of the Code takes into account the new rules on the use of electronic communications for marketing and technological developments in the area of electronic marketing.

I am pleased that my office has been involved in the development of this edition of the Code. I look forward to continuing to work closely with the Association to ensure continued respect for the privacy of individuals by the industry.



Richard Thomas
Information Commissioner
21 March 2003



1.0 Introduction

1.0 INTRODUCTION

Self-regulatory system	1.1	The Direct Marketing Association (UK) Ltd seeks to maintain and support an effective and credible system of self-regulation that meets the reasonable expectations of consumers and businesses regarding the conduct of the direct marketing industry.
Code of Practice	1.2	To that end, the Association has devised this Code of Practice, which covers all direct marketing practice in the UK.
Best practice	1.3	The Code sets standards of ethical conduct and best practice in order to promote the highest quality standards and consistency in practices in the direct marketing industry as a whole and particularly within the Association's member companies.
The Authority	1.4	The Association has also created the independent Direct Marketing Authority to enforce the Code (see Section 4).
Compliance	1.5	Compliance with this Code is mandatory for all Association members as a condition of membership, but all those involved in direct marketing, whether members or not, are encouraged to consult this Code and to comply with its provisions in order to ensure the highest possible standards in all their direct marketing activities.
Effective date	1.6	This edition of the Code came into force on 1st September 2003 and replaces all previous editions.



2.0 Interpretation

2.0 INTERPRETATION

Application	2.1	The Code applies to all direct marketing activities. Compliance with it is mandatory for all Association members.
Scope	2.2	The Code refers to relevant legal requirements and it supplements the law with requirements, which are considered by the industry to be essential best practice.
Must	2.3	The use of the word "must" indicates that a requirement is compulsory for members, either because it is law or because it is considered to be essential to good direct marketing practice.
Should	2.4	The word "should" is used where a requirement is considered best practice. Members are expected to comply.
Definitions		
The Association and the Board	2.5	"The Association" is the Direct Marketing Association (UK) Ltd and "the Board" is the Board of the Association.
The Authority	2.6	"The Authority" is the Direct Marketing Authority (see Section 4).
Best Practice Guidelines	2.7	"Best Practice Guidelines" are a series of guidelines produced by the Association for specific membership groups. They provide members with additional guidance on particular industry sectors and set down higher standards of practice than this Code requires.
The Code	2.8	"this Code" or "the Code" is the Direct Marketing Code of Practice 3rd Edition.
Commercial communication	2.9	The term "commercial communication" is any communication of advertising or marketing material directed by a business (including sole traders and partnerships) to consumers or another business whether it represents the entirety of the communication or constitutes part of an otherwise non-marketing message. The term includes sales promotion, fundraising and all advertising whether it contains an offer for goods or services or an invitation to treat.
Compliance Officer	2.10	The term "compliance officer" refers to the individual required by this Code designated by each member of the Association to take responsibility for that member's compliance with this Code.
Consumer	2.11	The term "consumer" means a person acting in a private capacity and not for the purposes of a trade or profession.
Customer...etc	2.12	The terms "customer", "respondent", "recipient" and "participant" refer to people, whether or not in their private capacities.
Individual	2.13	The term "individual" means a living person or a person acting as a sole trader or within a partnership.
Mailing standards levy	2.14	The term "Mailing Standards Levy" or "ASBOF Levy" is a levy collected on a mailer's invoice and passed to the Advertising Standards Board of Finance to fund designated self-regulatory bodies.
Member	2.15	The term "member" refers to companies or organisations that have been accepted into membership of the Association under the terms of the Articles of the Association.
Minors	2.16	Any reference to "minors" means those less than 18 years of age, unless otherwise specified.
Vulnerable consumers	2.17	The term "vulnerable consumer" includes, but is not limited to, people with disabilities, the elderly and those for whom English is not their first language.



3.0 General Obligations

3.0 GENERAL OBLIGATIONS

Compliance with the Code	3.1	Members must comply with the provisions of this Code as a condition of membership of the Association. Members must comply with the spirit as well as the letter of the Code.
Written undertaking	3.2	Before gaining membership of the Association, applicants must sign an undertaking that they will ensure compliance with this Code in all their direct marketing activities and designate a Compliance Officer to take responsibility for this undertaking (see para 3.3 below). Members are required to repeat such an undertaking and confirm the nomination of a Compliance Officer every year via the Annual Compliance Questionnaire (see para 3.5 below).
Designation of Compliance Officer	3.3	Members must take all reasonable steps to ensure that their employees and anyone working on their behalf comply with this Code and with relevant legislation. To that end, members must designate a person to act as a Compliance Officer. The Compliance Officer must:
Knowledge of the Code	a)	have a thorough knowledge of the provisions of the Code and of relevant legislation
Compliance seminar	b)	attend at least one Compliance Awareness Seminar run by the Association
Annual Compliance Questionnaire	c)	ensure that the Annual Compliance Questionnaire is completed
Point of contact	d)	act as a point of contact for the Association on all compliance issues
Training	e)	ensure distribution of the Code and provide appropriate training to all relevant members of staff and anyone working on behalf of the member, compiling internal compliance training records, which may be inspected by the Association on request.
Compliance Officer Certificate	3.4	Upon attendance at an Association Compliance Seminar, Compliance Officers will be issued with a Compliance Officer Certificate. New members must ensure that their designated Compliance Officer has attended a Compliance Seminar within six months of gaining membership.
Annual Compliance Questionnaire	3.5	Members must report on their performance in relation to the Code by completing the Annual Compliance Questionnaire. If the DMA Compliance Manager considers compliance with this Code (including paras 3.3 and 3.4 above) to be satisfactory, members will be issued with a Member Compliance Certificate. This certificate, which is renewable annually, must be displayed in the members' premises and reference should be made to it in their direct marketing literature (see para 3.24 below). New members must complete an Annual Compliance Questionnaire within six months of membership.
Direct Marketing Authority	3.6	Members must accept the jurisdiction of the Direct Marketing Authority and co-operate fully with any investigation or enquiries initiated by the Authority. Members must comply with any conclusion reached by the Authority, including a decision to take disciplinary action resulting from a breach of the Code (see Section 4).
Association monitoring of Code	3.7	Members must accept the right of the Association to monitor compliance with the Code through an audit scheme, mystery-shopping exercises etc and to accept compliance visits (see para 4.15 c below). As a result of these activities, the Association may raise compliance issues with a member and make appropriate recommendations to prevent a possible breach of the Code. Failure to accept such recommendations may result in a referral to the Direct Marketing Authority for adjudication and therefore, where such adjudication is negative, to the imposition of sanctions for a breach of the Code. (see Section 4).
CAP Code and ICSTIS	3.8	Members must comply with the provisions of the British Code of Advertising, Sales Promotion and Direct Marketing (The CAP Code) and other relevant Codes, such as the Code of Practice of the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS). Members must also comply with any decision reached by the Advertising Standards Authority.

Other codes	3.9	The Authority will take into account any breach of other relevant codes of practice in reaching its decisions.
Legislation	3.10	Members must comply with all relevant legislation (see Appendix 2 on principal legislation affecting direct marketing). Members must recognise that compliance with the Code does not necessarily guarantee that they are acting within the law but any breach of relevant legislation will be considered a breach of this Code.
Responsibility for suppliers	3.11	Members must accept that in the context of this Code they are normally responsible for any action (including the content of commercial communications) taken on their behalf by their sales agents, their agencies, their direct marketing suppliers and others.
Responsibility for clients	3.12	A member acting as an agency or supplier for a non member's direct marketing activity must advise the non-member to act within this Code. If the non-member client does not take that advice, the member must insist that the Code is followed, in respect of work in which the member is involved, as a condition of acting for the client.
Sub-contracted work	3.13	Where members sub-contract work to non-Association members, they must ensure that the non-member contractor complies with the Code in respect of the sub-contracted work and accept responsibility for non-compliance by the non-member.
Best Practice Guidelines	3.14	Members should refer to the Association's Best Practice Guidelines. Compliance with these guidelines is not compulsory, except where there is an overlap with the law or with this Code, but the Authority in any adjudication may consider as relevant the extent to which a member has followed them.
Standard terms & conditions	3.15	Members should refer to any documents containing standard terms and conditions created by the Association for particular direct marketing activities.
Mailing standards levy	3.16	Unless specifically exempted, members must pay the Mailing Standards Levy/ASBOF Levy on their postage invoices or have in place an equivalent arrangement with the Advertising Standards Board of Finance (ASBOF).
Fair behaviour	3.17	In all their dealings with consumers, other businesses and each other, members must act decently, fairly and reasonably, fulfilling their contractual obligations at all times.
"sugging"	3.18	Members must not misrepresent themselves as carrying out research or a survey when the real purpose of the contact is to sell goods or services.
"dugging"	3.19	If members are collecting personal information for the purposes of research or a survey and also intend to use this information for other purposes, such as making offers to respondents, they must make these other purposes conspicuously clear.
High pressure selling	3.20	Members must not adopt high pressure selling techniques in the course of any contact with consumers or businesses.
Clear terms and conditions of supply	3.21	Members must adopt clear terms and conditions of supply, including fair contracts. Contracts with consumers must be drawn up taking into account the Unfair Terms in Consumer Contracts Regulations 1994.
Public image of direct marketing	3.22	Members must ensure that they do nothing that could damage the public image of direct marketing or the Association.



21.0 Telemarketing

21.0 TELEMARKETING

General Rules

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| Scope | 21.1 | This Section applies to all members using the telephone for marketing, sales or service purposes to consumers, businesses and other organisations. |
| Code compliance | 21.2 | Members using the telephone for these purposes must comply with this Section and with the Code as a whole. In particular, members' attention is drawn to Section 5 on Data and to Sections 6, 7 and 8 on the Content of Commercial. |

Communications

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| Legislation | 21.3 | Members must comply with all relevant legislation and in particular with the Privacy and Electronic Communications (EC Directive) Regulations 2003 and the Communications Act 2002. In addition, members' attention is drawn, where relevant, to the Charities Act 1992 Part II, the Financial Services and Markets Act 2000, the Financial Services and Markets Act 2000 (Financial Promotions) Order 2001 and the Financial Services Authority Mortgage Conduct of Business Rules (see paras 8.30 to 8.43). Members should also comply with any guidance notes issued in connection with the above legislation, in particular the current version of the OFCOM statement of policy on the persistent misuse of an electroniccommunications network or service. |
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Premium Rate Services

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| ICSTIS | 21.4 | Members using premium rate services must comply with the Code of Practice of the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS). |
| CAP Code | 21.5 | Members must ensure that commercial communications advertising premium rate services and the content of such services comply as appropriate with this Code and the British Code of Advertising, Sales Promotion and Direct Marketing (The CAP Code). |

Information to be provided

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| Identity of advertiser | 21.6 | Members making sales, marketing or service calls must volunteer the name of the advertiser at the beginning of the call and must repeat this information on request at any time during the conversation. |
| Contact details | 21.7 | Members making sales, marketing or service calls must, on request, give the full contact details of the advertiser, including the full company name, legal address, company registration details, postal address (PO Box numbers are not sufficient), email address and terrestrial telephone number. The advertiser's name, address and telephone number must also appear in the telephone directory or be listed with Directory Enquiries under the name given during the call.
Individuals initiating a call in response to an offer with a telephone response mechanism must, on request, be given the advertiser's name and contact details as above (see para 6.22b above). |
| Identity and contact | 21.8 | When making calls on behalf of another organisation, members must disclose their own name, address and telephone number if requested at any time during the conversation. |
| Purpose of call | 21.9 | Members must clearly state at the beginning of the conversation all commercial purposes of the call and must restrict the content of the call to matters directly relevant to these purposes. |
| Visits | 21.10 | If a member arranges to visit the recipient of a sales, marketing or service call, a telephone number or address must be provided in advance of the visit to enable the recipient to cancel or change the appointment. |
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Distance Selling Regulations

Prior Information	21.11	Members making offers by telephone, which are the final stage in a process that allows individuals to buy products or services, must provide the information required by the Distance Selling Regulations 2000. Specifically, the call must include:
		a) clear details of the goods or services offered, including:
Description		i) a description of the main characteristics of the goods or services
Price		ii) the price including VAT, unless the offer is addressed exclusively to trade, and any other tax and duties payable so that the total amount payable can be easily calculated
Post & packing		iii) details of any additional, non-optional extras such as post, delivery and packing charges (see paras 6.43 and 6.44 above on post and packaging) so that the total amount payable can be easily calculated
Delivery arrangements and timing		b) clear details on the arrangements for the delivery of goods or performance of a service, including the estimated fulfilment time which, unless the parties agree otherwise, must be within a maximum of 30 days from the day following that on which the customer placed their order (see para 9.10)
Right to cancel		c) a prominent statement explaining the existence of a right to cancel orders for goods or services (unless exempted, see para 9.24)
Cost of communication		d) details of any postal, telephone or other communication charges that are higher than the basic rate (e.g premium rate numbers)
Restrictions		e) details of any limitations on the offer such as geographic restrictions, period of availability of the offer or any other conditions that affects its validity
Open-ended contracts		f) details of the minimum duration of open-ended contracts (ie where goods are supplied or services performed permanently or recurrently)
		g) where appropriate, a statement outlining the intention to provide substitute goods or services (of equivalent quality and price) if those ordered become unavailable and that the advertiser will meet the cost of returning substitute goods on cancellation
		h) information on the payment mechanisms available, including any credit and instalment terms.
Additional and written information	21.12	In addition to the above, prior to the conclusion of the contract or thereafter in good time but no later than the time of delivery of the goods or the service has been fully performed, the following information must be provided in writing or other durable medium (see para 6.26 above):
General information		a) the information required in paras 21.11a) to c) above, which was originally given verbally during the telephone call
Name and address		b) the identity of the advertiser, which must be prominently displayed and the advertiser's full geographical business address to which a consumer can send complaints
Right to cancel		c) the conditions and procedures for exercising the right to cancel (unless inapplicable, see para 9.24), including information regarding who is responsible for the return of cancelled goods and the cost of returning or collecting them
After-sales service & guarantees.		d) information regarding after-sales service and guarantees
Cancellation of open-ended contracts.		e) the conditions for exercising any contractual right to cancel a contract of unspecified duration or duration exceeding one year.

Restriction of Contacts

Minors	21.13	Members must make all reasonable steps not to make outbound marketing calls to minors.
Random number dialling	21.14	Sales, marketing and service calls must not be generated by random number or sequential dialling, manually or by computer. Such calls are likely to be in breach of the Communications Act 2003 and Ofcom has powers to take enforcement action
Random number scanning		The practice of number-scanning (also known as 'pinging') where calls are made to find out which telephone numbers, out of a range of numbers, are in service or not. As soon as a tone is received which establishes the status of a particular number the call is terminated. This activity is carried out in order to develop lists of active telephone numbers. As well as the inconvenience that may be caused to the recipient of an abruptly terminated call such behaviour is detrimental to consumers in general by adding to network congestion. In a worst-case scenario high-volume number-scanning could overload either the originating or terminating local exchange thus depriving subscribers connected to that exchange of the ability to make or receive any calls at all The above is considered by Ofcom to be a persistent misuse of a communications network or service and therefore a breach of the Communications Act 2003 and Ofcom has powers to take enforcement action.
Ex-directory numbers	21.15	Members must not knowingly make calls to unlisted or ex-directory numbers unless the number has been provided by the consumer concerned.
Calls to place of work	21.16	Members must not make consumer calls to individuals at their place of work unless the individual has given this number for that purpose.
Unsolicited telephone calls promoting mortgages	21.17	Members must not make unsolicited calls promoting mortgages unless the member has an established existing relationship with the consumers and the relationship is such that the consumer envisages receiving unsolicited telephone calls promoting mortgages (see para 8.43).
Calls to those who have objected and TPS	21.18	Members must not make unsolicited calls for direct marketing purposes to individuals (including sole traders and, except in Scotland, partnerships) where the individual has notified the caller that he does not wish to receive such unsolicited calls, or where the individual has registered his objection with the Telephone Preference Service.
In-house suppression file	21.19	Members must therefore operate and maintain an in-house suppression file, listing recipients who have indicated that they do not wish to be contacted by telephone. Members must have documented procedures to ensure that all such names have been blocked from the telephone contact lists used by them or on their behalf (see para 5.74).
TPS	21.20	Members must also ensure that no list containing individuals is used for telephone marketing purposes unless it has been cleaned against the Telephone Preference Service (TPS) file. Members must ensure that such a list is cleaned against the most recent TPS file no more than 28 days before supply, although a user may choose to clean it again before use. [NB Members may use their own list (ie. a list of those with whom they have an established relationship) without cleaning against the TPS file, as long as the individual has provided their telephone number (ie. it is not sourced) and it has been made clear that the number may be used for marketing purposes.]
Automated calling systems	21.21	Members intending to initiate outbound marketing calls involving the use of an automated calling system (ie. a system which, when activated, operates to make calls without human intervention) must have obtained the prior consent of the person being called, whether they are an individual or another business. [NB: This does not include automated dialling equipment (predictive diallers), see para 21.22 below.]

Automated Dialling Equipment

Definition of dialling equipment	21.22	For the purposes of this Code, "dialling equipment" means any equipment capable of dialling a telephone number prior to a live operator being available to exclusively handle the call. This includes, but is not limited to, predictive diallers,
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		progressive diallers, power diallers, auto diallers, preview diallers, adaptive diallers and automatic diallers.
Live call	21.23	For the purposes of this Code, a "live call" is a call where a live individual answers a call made by the dialling equipment.
Abandoned call	21.24	For the purposes of this Code an "abandoned call" is any call where the dialling equipment releases the line after the call has been answered by a live individual.
Ring time	21.25	Members must ensure that their dialling equipment is adjusted to ensure a minimum ring time of 15 seconds before the call is abandoned as unanswered.
Call abandonment timing	21.26	If a "live" operator is unavailable to take the call generated by the dialling equipment, the equipment must release the line as quickly as possible and within a maximum of 2.0 seconds from when the call is answered other than by a live individual.
Rate of abandoned calls	21.27	The dialling equipment must at all times be adjusted to ensure that the rate of of calls abandoned is no more than 3% of live calls on each individual campaign over any given 24 hour period. If this rate is exceeded the Direct Marketing Authority will take action as defined under section 4 of the Code.
Information message in the event of an abandoned call		<p>In the event of an abandoned call, a brief recorded message must be played within 2.0 seconds of the call being answered which contains at least the following information:</p> <ul style="list-style-type: none"> i) the identity of the company on whose behalf the call was made (which will not necessarily be the same company that is making the call) ii) details of a no charge (0800) number the recipient can contact so they have the possibility of declining to receive further calls from that company iii) The message must <u>not</u> include any marketing material and must <u>not</u> be used as an opportunity to market to the recipient.
Repeat of abandoned calls	21.28	Where a number has received an abandoned call, any further calls to that number within the following 72-hour period must be handled by a dedicated operator, to prevent any chance of a further abandoned call.
Dialler statistics	21.29	<p>For each individual campaign, members must maintain an up to date archive of dialler statistics that clearly demonstrate compliance with 21.26 to 21.28 above. This must include a daily summary of:</p> <ul style="list-style-type: none"> a) the number of calls attempted b) the number of calls answered c) the number of calls connected d) the number of calls passed to a live operator e) the number of live calls abandoned by the dialling equipment. <p>Detailed calling statistics at the CDR (Call data record) level must be kept for all calls for a period of six months. All calls in this case refers to both connected calls and non connects.</p>
Records of dialler Caller line identification	21.30	Summary records of dialler statistics must be retained for a minimum of 24 months and must be available for inspection on reasonable notice from the Association, Authority or other appropriate authorities.
Caller Line Identification		
Caller Line Identification	21.31	When undertaking outbound calls members must provide caller line identification and where possible should provide their company name using CLI text.

Information to be given when calling through CLI	21.32	<p>Consumers calling back on the number provided through caller line identification must, either by live operator or a recorded message, be informed:</p> <ol style="list-style-type: none"> The identity of the company on whose behalf the call was made(which will not necessarily be the same company that is making the call) An opportunity to decline further calls from that company, Where the recipient phones to decline further calls they may be informed that this is not an option because of the circumstances of the call, for example debt recovery, customer service, credit management. If a further call is required then this must be on the same basis as 21.33 below The message must <u>not</u> include any marketing material and must <u>not</u> be used as an opportunity to market to the recipient.
Cost of CLI returned calls	21.33	<p>Calls to the telephone number provided in accordance with para 21.31 above must be free for Business to Consumer calls and for Business to Business calls it should not be charged a rate exceeding the national call rate.</p>
Publication of network and presentation CLI's		<p>Members will record and keep up to date details of:</p> <ul style="list-style-type: none"> ▪ Company name ▪ Contact details for those who wish to be added to their in house do not call list ▪ Network CLI's that they use ▪ Presentation CLI's that they use ▪ CLI text that they forward. <p>This data must be supplied to the DMA and will be kept by them on an internal database. This information will be available to the Nuisance Call Bureaux and the public for purpose of allowing them to quickly identify the companies that are calling them</p> <p>Members must sign a form provided by the DMA that gives staff at the Nuisance Calls Bureaux permission to pass on their company name and contact details to any member of the public who complains about receiving calls from them.</p>
Permission to pass on details		
Procedures for Complaint and do not call requests		<p>Members who conduct outbound work should have a documented procedure for staff to follow when</p> <ul style="list-style-type: none"> ▪ An individual asks to be placed on the companies in-house do not call list ▪ Complaints are received from the nuisance call bureaux, the TPS or Ofcom on behalf of an individual
Pass Back do-not-call request		<p>Members who conduct outbound work on an agency basis should have a documented procedure showing how an individual requests to be added to the in-house do not call list are placed back to the client.</p>

Honesty

Honesty	21.34	Members must not evade the truth and must take care not to mislead. Any questions must be answered honestly and to the best of available knowledge.
Sugging	21.35	Sales, marketing or service calls must not be made under the guise of research or a survey. When collecting information for legitimate research or survey, members must not use this information to form the basis of a sales approach either during or after the call.
Responsibility for staff	21.36	Members must accept responsibility for statements made by their staff or others working on their behalf.

Courtesy and Procedures

Courtesy	21.37	Members must at all times be courteous and efficient during sales, marketing and service calls.
No high pressure tactics	21.38	Members must avoid the use of high pressure tactics that could be construed as harassment.
Right to terminate call	21.39	Members must always recognise the right of the other party to end the telephone conversation at any stage, and must accept any request to end the call promptly and courteously.

Callers right to terminate call	21.40	Members have the right to politely terminate a call at any time where, for example, the other party has become abusive or early termination of the call may avoid confrontation or confusion.
Reasonable hours	21.41	Members must not make sales, marketing or service calls during hours which are unreasonable to the person being called, recognising that what is regarded as reasonable can vary in different locations and in different types of households or businesses. In general, members should not make calls between the hours of 9pm and 8am Monday to Friday and 9pm and 9am at weekends, unless an express invitation to do so is received. Members must also be aware that many consumers might consider it unreasonable to be called on a Sunday or on national/religious holidays.

Warning Tones and Silent Monitoring

Regulation of Investigatory and Powers Act 2000	21.42	Members must comply with the Regulation of Investigatory Powers Act 2000 with The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000.
Monitoring or recording	21.43	Members may record or monitor a telephone call for any purpose where both the person making and the person receiving the call have given their consent. Provided the person making the call knows the monitoring or recording is taking place and the advertiser has made reasonable efforts to ensure the recipient of the call knows recording or monitoring is taking place, members may monitor or record telephone communications without consent for the following purposes:
Establishing facts etc	a)	the monitoring or recording is carried out in order to establish the existence of facts, to ascertain compliance with regulatory or self-regulatory practices or procedures or to ascertain or demonstrate standards which are or ought to be achieved (ie. for quality control and training purposes) or
Detection of a crime	b)	the monitoring or recording is carried out in order to prevent or detect a crime or to investigate or detect unauthorised use of the telephone system, or
Ensuring effective system operation	c)	the monitoring or recording is carried out to ensure effective system operation including the monitoring of calls to determine whether they are business or personal communications
Informing both parties	d)	and members have informed both the makers of the telephone call and the recipient that the call may be monitored or recorded.
Contracts of employment	i)	it is recommended that contracts of employment for individuals using the telephone on behalf of a member include a provision explaining that calls may be monitored or recorded
Informing individuals	ii)	members should inform individuals at the start of a conversation that the call may be monitored or recorded or should include such a statement in any commercial communication which invites an individual to telephone the member.

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ELEMENT OF THE CODE - THE DIRECT MARKETING AUTHORITY

Appendices

APPENDIX 1

Use of the Association logo	
Colour	The logo should always appear in solid blue, pantone reference 281, and in black on black only literature. If placed on a dark background, the logo may be reversed out in white.
Size	The minimum diameter with which the logo should appear is 15 mm. The logo should be separated from other graphic devices by at least half its diameter and when used on members' stationery, should be at least the same distance from the edge of the paper.
Wording	When members are using the logo smaller than 22mm in diameter, the Direct Marketing Association wording should be deleted.
Artwork	The logo should be reproduced in line, using approved artwork provided by the Association.
Coupons	Members should not use the logo within a response coupon or next to credit card or other payment symbols.
Text	Members are encouraged to use the logo in combination with text to clarify or explain membership, although the Association reserves the right to object to any wording thought to be inappropriate.

APPENDIX 2

Principle legislation affecting direct marketing

A number of laws and regulations must be followed when carrying out direct marketing activities in the UK:

- Charities Act 1992
- Code of Practice for Traders on Price Indications 1989
- Communications Act 2003
- Conduct of Employment Agencies and Employment Business Regulations 2003
- Consumer Credit Act 1974
- Consumer Credit (Advertisement) Regulations 2004
- Consumer Credit (Agreements) (Amendment) Regulations 2004
- Consumer Credit (Early Settlement) Regulations 2004
- Consumer Credit (Disclosure of Information) Regulations 2004
- Consumer Protection Act 1987
- Consumer Protection (Cancellation of Contracts Concluded away from Business Premises Regulations) 1987, as amended
- Consumer Transactions (Restrictions on Statements) Order 1976
- Control of Misleading Advertisements Regulations 1988
- Copyright Designs and Patents Act 1988
- Copyright and Related Rights Regulations 2003
- Data Protection Act 1998
- Disability Discrimination Act 1995
- Distance Selling Regulations 2000
- Electronic Communications Act 2000
- Electronic Commerce (EC Directive) Regulations 2002
- Employment Rights Act 1996
- Enterprise Act 2002
- Fair Trading Act 1973
- Financial Services and Markets Act 2000
- Financial Services (Distance Marketing) Regulations 2004
- Telecommunications Lawful Business Practice (Interception of Communications) Regulations 2000
- Lotteries and Amusements Act 1976
- Mail Order Transactions (Information) Order 1976
- National Minimum Wages Regulations 1999
- Offensive Weapons Act 1996
- Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- Privacy and Electronic Communications Regulations 2003
- Price Marking Order 1999
- Price Marking Order 2004
- Regulation of Investigatory Powers Act 2000
- Representation of the People Act 2000
- Representation of the People (England and Wales) (Amendment) 2002
- Sale of Goods Act 1979
- Sale and Supply of Goods Act 1994
- Sale and Supply of Goods to Consumers Regulations 2002
- Sex Discrimination Act 1975
- Stop Now Orders (Injunctions Directive) Regulations 2001
- Supply of Goods and Services Act 1982
- Telecommunications Act 1984
- Theft Act 1978
- Trademarks Act 1994
- Trade Descriptions Act 1968
- Trade Descriptions (Place of Production) (Marking) Order 1988
- Unfair Contract Terms Act 1977
- Unfair Terms in Consumer Contracts Regulations 1994
- Unsolicited Goods and Services Act 1971 (as amended)
- Working Time Regulations 1998

APPENDIX 3

Vulnerable consumers

What is a vulnerable consumer?

Many people believe that vulnerable consumers cover people such as minors, under 18's or having physical disabilities, whilst these two sectors do indeed fall under the category, it is important to recognise that the interpretation does include other sectors.

The definition as found in the Collins English Dictionary is:

'Liable to be physically or emotionally hurt; exposed to attack

A more defined list might be: -

Minors - those under 18 and in some cases 16 or 14 as defined further under paras 2.16, 8.11-23, 19.25-34 and 20.21-25.

Physical Disabilities - those having sight, hearing, or mobility impairment or or difficulties

Literacy or Numeracy difficulties - those who are educationally disadvantaged, or for whom English is not their first language.

Other Groups: - Permanent or temporary non-British citizens

The elderly

Unemployed

Recently bereaved including stillbirths/neonatal bereavement

What does the DM Code of practice say about vulnerable consumers?

In addition to the section above regarding minors, the Code also has the following statement at para 3.23: -

When members become aware that they are dealing with vulnerable consumers, they must take all reasonable steps to allow for any difficulties the consumer may have, for instance explaining the terms of an offer or the consequences of responding in a clear and helpful manner and giving appropriate advice. Members must not exploit the credulity, lack of knowledge or inexperience of any consumer, taking particular care when dealing with vulnerable consumers. Members should refer to the relevant legislation and codes of practice on this subject for further guidance.

This states the member's obligation towards vulnerable consumers, in addition advice can also be sought from the DMA legal team (0207 291 3347/3356) or by contacting such organisations as: -

The Disability Rights Commission	www.differentstrokes.co.uk/disabilityrightscom
The Office of Fair trading	www.offt.gov.uk
RNIB	www.rnib.org.uk
RNID	www.rnid.org.uk
Age Concern	www.ageconcern.org.uk
Save the Children	www.savethechildren.org.uk

What can you do to ensure non-exploitation of vulnerable consumers through your direct marketing activities?

- It is our responsibility, in fact our obligation, under the Code to ensure that vulnerable groups are not disadvantaged when dealing with our industry. Apart from the suggestions above we would recommend that you: -
- Take time to explain your product, service or offer in a clear and concise manner, giving time for questions and clarification.
- Repeat any acceptance given to you with clear explanations of the implications of such decisions.
- Ensure adequate type points sizes are used and that small fonts are not used to those consumers to whom it would cause particular difficulty i.e. partially sighted, or educationally disadvantaged.
- Ensure adequate training is given to customer-facing departments,
- Always get advice from experts if you think that a particularly vulnerable consumer group could be included in your direct marketing activities.

Make sure your data are sourced 'fit for use' of your intended audience.



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