

Australian Privacy Foundation - 27th February 2004

- **Definition of Calling Line Identity**

ADMA is happy to change the definition of Calling Line Identity so that it is consistent with the ACIF Code of Practice C522 Calling Number Display

- **Definition of Direct Marketing**

The Australian Direct Marketing Association represents the direct marketing industry and its remit does not extend to direct selling practices. Direct marketing is distinct from direct selling in that direct marketing does not involve face-to-face contact with the consumer. The Direct Selling Association of Australia represents organisations that use direct selling techniques and they have a Code of practice that applies to member companies.

The Direct Selling Association of Australia can be contacted at:

Level 1, 14 King St, Rockdale NSW 2216
PO Box 232, Rockdale 2216
Tel: 02 9567 8566

As ADMA does not represent this section of the industry it would not be appropriate to extend the definition of direct marketing to include direct selling.

- **Information to be provided on request**

NPP 1.3 of the Privacy Act requires and organisation to give certain information *when collecting personal information*. This is replicated in Section F of the revised ADMA Code of Practice and applies to any member that is collecting personal information will be required by both the Privacy Act and the Code to give the required information. Subsection 89 of the ADMA Code of Practice requires members to provide the consumers specific information on request *in all instances*, regardless of whether personal information is being collected or not. In this way, the ADMA Code of Practice adds an additional level of protection for the consumer as they can obtain information about an organisation in all instances, not just where personal data is being collected.

- **Automated dialling equipment and programmed voice calling systems**

Article 13(1) of the European Unions Directive on Privacy and Electronic Communications 2002/58/EC does not relate to automated dialling equipment. The Directive relates to programmed voice calling systems and requires that such systems should only be used for marketing purposes with the recipients' prior consent. This has standard has been replicated in the revised ADMA Code of Practice.

The Directive does not prohibit use of automated dialling equipment or programmed voice calling systems

- **Fair conduct relevant to email marketing and electronic commerce**

The provisions included in the revised ADMA Code of Practice were taken from the draft eMarketing Code of Practice that was in the process of being drafted when the revised ADMA Code was submitted to the ACCC for authorisation. Since the revised ADMA Code was submitted to the ACCC, the eMarketing Code of Practice has been completed and registered with the Australian Communications Authority. ADMA would like to either (a) revise subsection 112 – 122 to ensure they accurately reflect the eMarketing Code of Practice provisions (b) remove subsections 112 –122 and replace with a reference to the Australian eMarketing Code of Practice. If the latter approach was deemed appropriate ADMA could include the eMarketing Code of Practice as an annex to the revised ADMA Code of Practice.

- **Fair conduct relevant to mobile marketing**

The provisions included in the revised ADMA Code of Practice were taken from the ADMA Mobile Marketing Code of Practice. This Code of Practice has now been incorporated into the Australian eMarketing Code of Practice that has been registered with the ACA. To ensure consistency with the Australian eMarketing Code of Practice ADMA would like to either: (a) revise subsection 137 – 155 to ensure they accurately reflect the eMarketing Code of Practice provisions (b) remove subsections 137 – 155 and replace with a reference to the Australian eMarketing Code of Practice. Again, if the latter approach is adopted ADMA could include the eMarketing Code of Practice as an annex to the revised ADMA Code of Practice.

Attorney-General's Department – 24th February 2004

ADMA would be happy to remove Section F of the revised ADMA Code of Practice and replace it with a reference to the National Privacy Principles. In doing so, ADMA would follow the wording used in the Model Direct Marketing Code of Practice recently revised by the Ministerial Council on Consumer Affairs.

Financial Services Consumer Policy Centre – February 2004

- **ADMA Do Not Call List**

The number of registrations on the ADMA Do Not Contact Services referred to in this submission are no longer accurate. In April 2005, the figures are as follows:

Do Not Mail: 174,211
Do Not Call: 144,992
Do Not Mail/ Call: 132,805
Total: 452,008

It is inaccurate to conclude that the number of organisations subscribing to the ADMA Do Not Contact files equals the number of organisations that use the files. All ADMA members are required, as a condition of membership, to screen against the Do Not Contact registers before undertaking an unsolicited marketing campaign. A large proportion of member companies will engage the services of a bureau to undertake this screening on its behalf. It is therefore the bureau that will subscribe to the Do Not Contact Files not the individual organisation. A data bureau will conduct these services on behalf of numerous ADMA members. Therefore it is not necessary for each ADMA member to subscribe to the Do Not Contact files individually.

- **Definition of direct marketing**

The definition of direct marketing should not be extended to include direct selling for the reasons outlined in response to the Australian Privacy Foundation's submission above (see bullet point 2)

NSW Office of Fair Trading - 11 March 2004

ADMA has taken into account the introduction of both the NSW direct commerce provisions and the amendment to the Victorian Fair Trading legislation through insertion of subsection 79, which warns members of differing State telemarketing legislation and expressly requires compliance with such laws.