Response: Proposal to remake the Telemarketing and Research Industry Standard 2007

The Association for Data-driven Marketing & Advertising (ADMA) is pleased to submit its response to the Proposal to remake the Telemarketing and Research Industry Standard 2007 (the “Paper”).

ADMA is the principal industry body for data-driven marketing and advertising in Australia, and is part of a data-driven network of associations representing more than 1000 members with a subscriber base of 60,000 individuals, many of whom are on the already entrenched participants in the data revolution.

These members represent client-side marketers in Australian companies across Banking, Finance, Insurance, Healthcare, Transport & Logistics, Retail, Manufacturing, Media, FMCG, Automotive, Utilities, Travel & Tourism and Not-For-Profits spanning business types from SMEs to Enterprise.

Data-driven marketing and advertising includes any marketing communication which uses data-insights, including personal information, to engage with a consumer with a view to producing a tangible and measurable response.

ADMA actively supports a regulatory environment that is both balanced and flexible, and allows for innovation and expansion of the use of data, including open data.

Care needs to be taken to ensure that any new government initiatives strike an appropriate balance between protecting consumers and not being seen to interfere with legitimate business activities.

We welcome the opportunity to comment on the Paper on behalf of our members.

ADMA Response

ADMA is broadly supportive of the ACMA’s recommendations and as marketing’s prime peak body we support the scope of the proposals and the standard in its current form.

We also support a consumer’s right to privacy.

ADMA Code

In response to the Paper, it is important to do so in the context of the existing ADMA Code. The Code’s principles address the issues key to marketers working in data-driven businesses.

ADMA members are obliged to comply with the standards mapped out in the Code. In its design to be both robust and enforceable, the ADMA Code of Practice is overseen by the mechanism of an independent Code Authority, comprising a panel of six expert adjudicators, evenly balanced between consumer representatives and those of industry, led by an independent chair.
The Code is based on six key principles;

- Consumer first;
- Use data responsibly;
- Provide choice;
- Promote fairness;
- Encourage transparency;
- Be honest;
- Value safety

Again as part of its design, it functions as an instrument that drives best-practice industry standards for ADMA members.

**Response to ACMA Proposal to remake the Telemarketing and Research Industry Standard 2007**

**Recommendations & Responses**

**3.1 Express consent to call during prohibited calling times**

**The ACMA Puts:**
Under section 5 of the current standard, calls outside the hours specified in the standard are permitted where consent has been given by the call recipient. The standard does not differentiate between inferred and express consent.

The ACMA proposes to clarify this requirement by stipulating that express consent must be provided when calling outside of permitted calling times.

**ADMA Position**
From the reading of the Standard and in the process of making this submission, it is clear for the need for ‘express consent’ to be obtained.

Inferred consent includes when a company has an existing commercial relationship with an individual. An example of this might include;

a. At an earlier time, a consumer has purchased a stereo component from a retailer and that retailer calls to offer an upgrade. As part of the purchase process the consumer has given the retailer all of their contact information with a reasonable expectation that at some time in the future, they would be contacted. This is where the consent is inferred.

Express consent should be required ‘outside of hours’, for example where a shift worker is happy to take a call but not during ‘normal’ hours.
3.2 Call attempts

**ACMA Puts:**
Subsections 6(2) and 6A(2) of the current standard require the caller to provide certain information to the call recipient as soon as the call ‘starts’.

**ADMA Position**
ADMA is fine with the provisions of this clause.

3.3 Information provided about the call and the entities involved in the call

**ACMA Puts:**
Under the current standard (sections 6 and 6A), the caller must provide specified information to the call recipient about the caller and the person who caused the call to be made, during and after a call.

**ADMA Position**
ADMA is fine with the provisions of this clause.

3.4 Information provided about the entity that caused the call to be made for research calls

**ACMA Puts:**
Subsection 6A(3) of the current standard requires that the caller must give the ‘name of the person that caused the call to be made’ (that is, the company on whose behalf the research is being conducted) immediately upon request. Subsection 6A(4) requires that if the information is not requested, then it should be provided before the end of the call.

**ADMA Position**
ADMA is fine with the provisions of this clause.

3.5 Contact details

**ACMA Puts:**
Section 6B of the current standard specifies the contact details that are required to be provided to a call recipient about a caller.

**ADMA Position**
ADMA is fine with the provisions of this clause.

3.6 Terminating a call

**ACMA Puts:**
Section 7 of the current standard requires that a caller must terminate a call in certain circumstances, including where the call recipient asks for the call to be terminated or otherwise indicates that they do not want the call to continue.
The ACMA is proposing to insert examples that may indicate that a person no longer wishes for a call to continue, to assist industry and consumers.

**ADMA Position**
After considering the examples provided, ADMA is fine with the provisions of this clause.
### 3.7 Calling-line identification

**ACMA Puts:**
Section 8 of the current standard requires callers to ensure that calling-line identification (CLI) is enabled when making a call. Callers must also ensure that the transmitted CLI number is ‘a telephone number, which is suitable for return telephone contact by a call recipient’.

**ADMA Position**
ADMA supports the display of the number where a call has originated and the provisions of this clause.

### 3.8 Other changes

**ADMA Position**
ADMA is fine with the provisions of this clause.

### Summary:

ADMA broadly supports most of the proposals put forward by the ACMA. However, it’s vital that care be taken to ensure their positive impact and not introduce undue and unnecessary restrictions on business.

ADMA is committed to its leadership of data-driven marketing through its support for innovative practices, clear guidelines and an enforceable Code of Practice. Bringing change that adds value enables Australian businesses to compete on a global scale, create jobs and grow the economy.

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ADMA