

# ADMA

Association for data-driven marketing & advertising

## **CODE OF PRACTICE**

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2018

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# INTRODUCTION

**ADMA sets leading industry standards and appropriate benchmarks that are relevant to the sector and allow for future growth. The ADMA Code of Practice (the Code) meets current industry needs for a flexible, future-proof approach to self-regulation.**

The Code was developed to set standards of conduct for the marketing, media and advertising industry, to minimise the risk of breaching regulatory obligations, to promote a culture of best practice, to increase confidence in doing business with ADMA Members who are bound by the provisions of the Code and to serve as a benchmark for settling disputes.

The Code is consumer-centric, placing consumers front-and-centre, which ensures that the Code Principles (responsibility, choice, fairness, transparency, honesty and safety) support the four core aspects of Customer Experience: namely **Data, Technology, Creativity & Content.**

The Code is about conducting good business. It supports compliant practices but is not a guide to legal compliance. The Code Principles supplement, rather than restate, relevant regulatory provisions. Further detail on specific regulatory requirements can be found on the Code Resources page of the ADMA website.

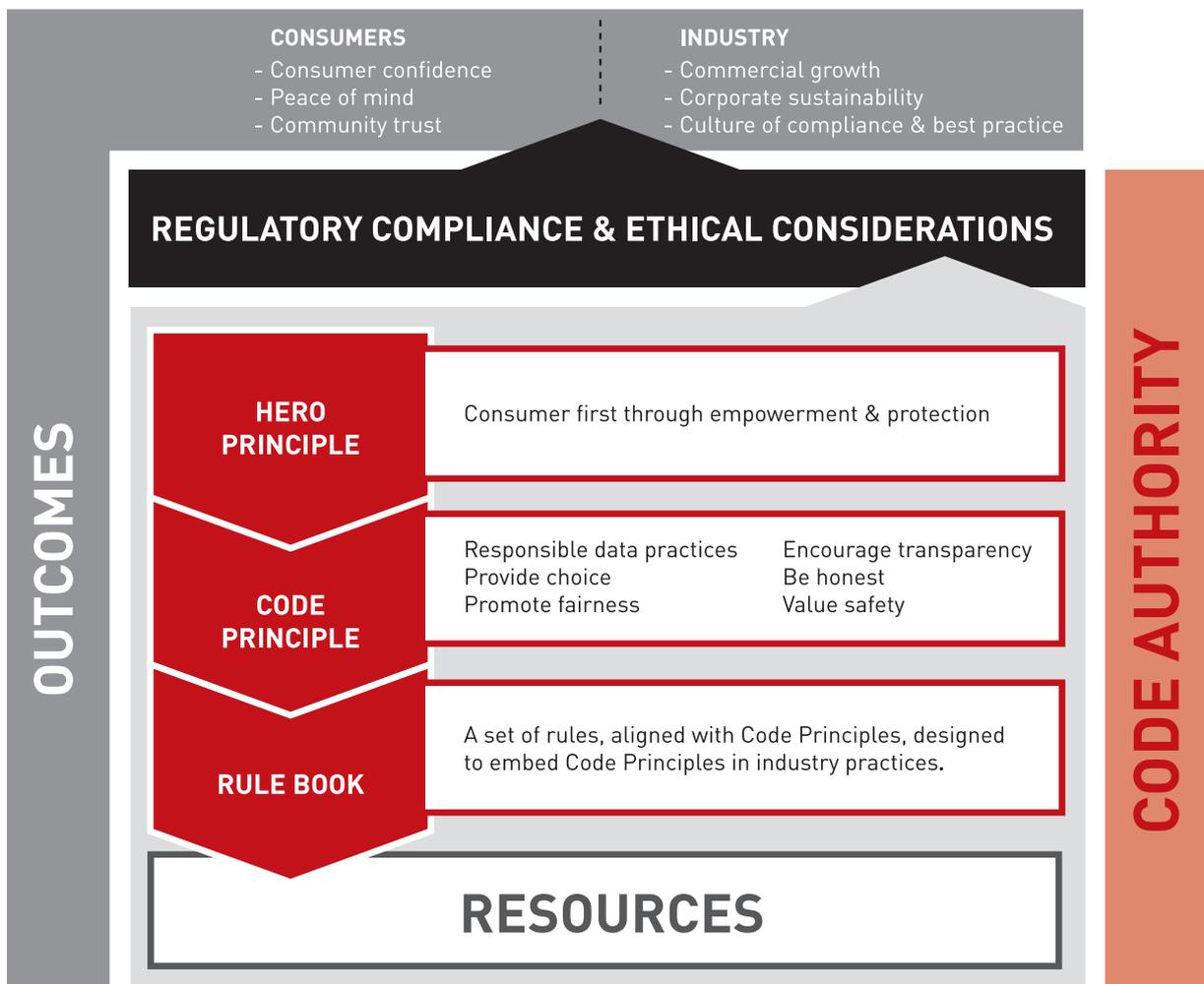
Ultimately, the Code framework establishes best practice in data-driven marketing and advertising. ADMA Members are bound to follow both the Code and any Code Guidelines in force at the time as a condition of ADMA membership. This obligation requires adherence to both the literal provisions and the spirit of the Code and Code Guidelines.

The Code is overseen and administered by the Code Authority. The Code Authority consists of an independent Chair, three independent consumer representatives and three industry representatives. The Code Authority is empowered to make determinations about Code compliance accordingly. The rules of the Code Authority are contained in the Code Authority Charter available in the Code section of the ADMA website.

# FRAMEWORK

The Code is structured within a clearly defined framework underpinned by the Code Authority, including a Hero Principle, general Code Principles and Rules, and supporting Resources - designed to aid with regulatory compliance, guide ethical considerations and to deliver consumer and business outcomes.

A visual representation of the framework appears below.



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# CODE OBJECTIVES

## TO ESTABLISH BEST PRACTICE STANDARDS:

- For collection and handling of Personal Information for marketing purposes across all online and offline marketing channels.
- That are channel, platform and technology neutral.
- That apply to industry participants generally, and to Members specifically, for the purposes of self-regulation and to deter the need for further government regulatory intervention.
- That promote lawful, open and transparent data-driven marketing and advertising.
- To increase community trust and consumer confidence in the marketing, media, analytics and advertising industry generally, and with respect to ADMA Members specifically.
- To promote pragmatic regulatory compliance by Members and industry participants generally to minimise or eliminate any risk of non-compliance.

# CODE PRINCIPLES

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# HERO PRINCIPLE

## CONSUMER FIRST THROUGH EMPOWERMENT AND PROTECTION

The Hero Principle of the Code captures the essence of all relevant consumer-related regulatory obligations - it puts the consumer first. The Code Principles can be seen as benchmarks, with each of the attendant rules providing a roadmap on how to get there. The Code requires Members to comply with all regulatory obligations relevant to data-driven marketing and advertising. To the extent that there is any conflict between those regulatory obligations and the Code, the regulatory obligations will prevail.

The Code also encourages Members to go beyond what is mandated by regulatory provisions; that is to go beyond compliance, for example, in empowering consumers and providing choice.

### OUTCOMES

Ultimately, the Code promotes three key outcomes

1. Confidence and compliance (consumer focused)
2. Commercial growth
3. Corporate sustainability (business facing)

These outcomes establish the ultimate WIN-WIN for consumers and business. This in turn is the core driver of Code compliance.

The approach of establishing, broad, overarching principles also serves to future-proof the Code. The Code Principles of responsibility, choice, fairness, transparency, honesty, safety, and accountability have broad application. The detail as to how these principles are evidenced in marketing and advertising practices may be captured in relevant Code Guidelines where required.

# USE DATA RESPONSIBLY

## OUTCOMES

- Companies act responsibly, collecting, using, storing and maintaining data in compliance with regulatory provisions.
- Companies take reasonable steps to avoid marketing that is intrusive or excessive and are sensitive to the needs of vulnerable consumers.
- Companies take responsibility for their actions and fix things if they go wrong.

## Rules

Members must:

- |            |   |            |   |
|------------|---|------------|---|
| <b>1.1</b> | Comply with all relevant regulatory provisions relating to the collection and use of data.  |            |   |
| <b>1.2</b> | Consider the appropriateness of communications to consumers taking into account the target audience, the purpose of communication and the delivery method of the communication.   |            |   |
| <b>1.3</b> | Take reasonable steps to ensure that they have appropriate technical and organisational measures so that data is not collected or used unlawfully or without authority, and is protected from unauthorised access, unauthorised disclosure, loss, destruction and damage. |            |   |
| <b>1.4</b> | Only use Sensitive Information for marketing purposes with the consent of the consumer concerned.   |            |   |
| <b>1.5</b> | Where relevant, ensure all staff, agents, partners, suppliers, contractors and any other third parties (Agents) are aware of the Code and the Member's obligation   |            |   |
|            |   |            | to act in accordance with the Code, and take reasonable steps to ensure that when Agents are acting on the Member's behalf that they in turn take reasonable steps to comply with the Code. |
|            |   | <b>1.6</b> | Take reasonable steps to ensure Personal Information used for marketing communications has been properly sourced, permissioned and cleaned.   |
|            |   | <b>1.7</b> | Take reasonable steps to ensure that Personal Information collected is relevant to one or more of the purposes for which it has been collected.   |
|            |   | <b>1.8</b> | Take reasonable steps to ensure that Personal Information is accurate, up-to-date and not kept for longer than necessary.   |

# PROVIDE CHOICE

## OUTCOMES

- Consumers have a clear understanding of the Value Exchange when sharing Personal Information and deciding whether, and to what extent they wish to participate.
- Consumers can make an informed choice as to whether they will share their Personal Information.

## RULES

Members must:

- 2.1** Be clear about the Value Exchange so that consumers can actively decide whether they share their Personal Information, what Personal Information they share and how and to what extent they wish to participate.
- 2.2** Where practicable, provide a simple and easily accessible method for consumers to indicate their preferences in relation to communications and use of their Personal Information.
- 2.3** Take reasonable steps to tell consumers how long it will take to give effect to their preferences.
- 2.4** Honour consumer communication preferences within a reasonable time.
- 2.5** Use the ADMA Do Not Mail Register, the government's Do Not Call Register and any similar lists held by a Member internally, when conducting a data-driven campaign in order to remove or suppress the name of any consumer, other than a Current Consumer, who has requested that they not receive communications.

# PROMOTE FAIRNESS

## OUTCOMES

- All Personal Information is collected and used fairly.
- Fairness in dealings with consumers.

## RULES

Members must:

- 3.1** At all times give prompt, efficient and courteous service to consumers - and must ensure they have in place adequate procedures and resources to achieve this.
- 3.2** Not adopt high-pressure selling or marketing techniques, such as persistent contact or undue pressure, in the course of any contact with any consumer or business.
- 3.3** Act in a manner that is consistent with the reasonable expectations of consumers.
- 3.4** Respond to consumer queries and concerns in a timely manner.

# ENCOURAGE TRANSPARENCY

## OUTCOMES

- Companies are upfront and clear about who is collecting Personal Information, why they are collecting it, to who it will be disclosed to and how they intend to use it at all stages of the Data Lifecycle.
- Companies are clear, open and transparent about all policies, costs and processes that impact consumers.
- Companies communicate with consumers in a language that is clear, understandable and accessible.
- Consumers clearly understand when they are providing consent and what they are consenting to.

## RULES

Members must:

- |            |   |            |   |
|------------|---|------------|---|
| <b>4.1</b> | Clearly identify the advertiser on any marketing communications.  | <b>4.6</b> | Maintain an adequate system of monitoring and auditing the collection of Personal Information.                  |
| <b>4.2</b> | Include an easy means of making contact by phone, email or online on any communication.   | <b>4.7</b> | Maintain adequate records to demonstrate compliance with the Code.  |
| <b>4.3</b> | Clearly identify themselves or the company collecting Personal Information.   | <b>4.8</b> | Take reasonable steps to ensure that consumers have accurate expectations about their dealings with the Member. |
| <b>4.4</b> | Keep consumers clearly informed about what Personal Information is being collected, who it will be disclosed to and the purposes for which it is to be used.  |            |   |
| <b>4.5</b> | Make all relevant information available to the consumer in an easily accessible manner and ensure, where practicable, that information is clear and understandable to inform consumer choice, this includes, but is not limited to; policies, procedures, costs and processes where those things are directly relevant to the consumer. |            |   |

# BE HONEST

### OUTCOMES

- Companies must be honest and not mislead consumers, whether through omission, exaggeration or other means.
- Companies deliver what they promise.
- Companies have the resources and systems in place to carry out commitments.

### RULES

Members must:

- 5.1** Act decently, fairly and reasonably, fulfilling their legal and contractual obligations at all times.
- 5.2** Ensure that marketing and advertising practices do not exploit, in circumstances where the Member is aware or should reasonably be aware of, the lack of knowledge or inexperience of consumers - and take particular care when dealing with children and other vulnerable consumers.
- 5.3** Not make any false claims or engage in misleading or deceptive conduct by statement, illustration or omission.
- 5.4** Not misrepresent the nature of their communication as carrying out research or a survey when the real purpose of the contact is to advertise, promote or sell goods or services, or to solicit donations.
- 5.5** Ensure that they do nothing, knowingly or intentionally that could bring into disrepute the public image of data-driven marketing and advertising, or ADMA.

# VALUE SAFETY

### OUTCOMES

- Companies take reasonable steps to ensure the safety and security of Personal Information.
- Companies inform consumers if the safety and security of their Personal Information has been compromised.

### RULES

Members must follow reasonable steps to ensure that:

- 6.1** Personal Information is held safely and securely.
- 6.2** Personal Information is re-secured and protected following loss or unauthorised access or disclosure.
- 6.3** Consumers are promptly notified if they are at risk of harm due to the safety and security of their Personal Information being compromised. The notification must include steps that consumers can take to protect themselves.
- 6.4** If they transfer Personal Information outside of Australia, there are adequate levels of protection for the rights of the consumer.
- 6.5** Personal Information is de-identified or securely destroyed once no longer required.

# BE ACCOUNTABLE

### OUTCOMES

- Companies are held to account to ensure compliance with the Code.
- Consumers can seek redress through the Code Authority.

### RULES

Members must:

- 7.1** Nominate and advise ADMA of the staff Member in their organisation who has ultimate responsibility for data practices and Code compliance.
- 7.2** Ensure in its dealings with third parties that it continues to comply with the principles of the Code.
- 7.3** Have a clear and publicly available statement to demonstrate commitment to and compliance with the Code.
- 7.4** Accept the enforcement of the Code by the Code Authority and co-operate fully with their investigations or enquiries.
- 7.5** Comply with any decision of the Code Authority.

# REGULATORY

### COMMONWEALTH REGULATORS

Australian Communications & Media Authority (ACMA) - oversees regulation of telecommunications, radio communications, broadcasting and the internet.

[www.acma.gov.au](http://www.acma.gov.au)

Australian Competition & Consumer Commission (ACCC) - regulates consumer law at a national level

[www.accc.gov.au](http://www.accc.gov.au)

Australian Securities & Investments Commission (ASIC) - ASIC is Australia's corporate, markets and financial services regulator (including some regulation of advertising content in the financial services sector).

[www.asic.gov.au](http://www.asic.gov.au)

Office of the Australian Information Commissioner - regulates privacy & freedom of information

[www.oaic.gov.au](http://www.oaic.gov.au)

Information is accurate at the time of publication see the full resources list on the Code Resources page of the ADMA website. Current Commonwealth legislation can be found at [www.comlaw.gov.au](http://www.comlaw.gov.au)

Please note: Marketing and advertising related regulatory provisions can be specific to certain industry sectors (for example, financial services, telecommunications) or may be content or channel specific (for example, broadcasting). A more comprehensive list of resources is available on the ADMA website, particularly on the Code Resources page - [www.adma.com.au](http://www.adma.com.au)

### KEY COMMONWEALTH LEGISLATION

Australian Securities & Investments Commission Act 2001

Broadcasting Services Act 1992

Competition & Consumer Act 2010

Privacy Act 1988

Spam Act 2003

Do Not Call Register Act 2006

Telemarketing & Research Calls Industry Standard 2017

Telecommunications Act 1997

Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015

These resources include:

- Links to State & Territory laws and regulators
- Information about advertising regulation & industry codes
- Resources available from the OAIC, particularly the APP guidelines.

### ADDITIONAL RESOURCES

Other resources, including state and territory information are available at [www.adma.com.au/compliance](http://www.adma.com.au/compliance)

# GLOSSARY - KEY WORDS

## ADMA

Association for Data-driven Marketing and Advertising Limited an entity of the Australian Alliance for Data Leadership (ACN 002 909 800) of Level 6, 50 Carrington Street, Sydney NSW 2000

## Current Consumer

Any consumer who has:

1. Contacted, made an enquiry or requested information from the Member or Related Body Corporate, affiliated or associated entity of the Member;
2. Made a purchase or renewed (including automatic renewals) a product or service of the Member or Related Body Corporate, affiliated or associated entity of the Member; or
3. Held, was covered under or otherwise had any type of interest in a product or service of the Member or Related Body Corporate, affiliated or associated entity of the Member;

Within the previous 12 month period or during the normal selling cycle (whichever is the greater) or

has provided current express, or inferred consent to be contacted.

## Data Lifecycle

This period during which Personal Information is accessible to, or in the control of, a Member.

## Member

Means ADMA Member.

## Personal Information

Has the meaning given in the Privacy Act 1988 (C'th).

## Sensitive Information

Has the meaning given in the Privacy Act 1988 (C'th)

## Value Exchange

The actual and/or perceived benefits to a consumer received in return for their business and/or receipt of their Personal Information.

## RESOURCES

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# GUIDELINES

The code is supported by Code Guidelines developed to provide more detailed guidance on how to comply with the Code and relevant regulatory provisions.

This approach allows flexibility and responsiveness to regulatory and technological change.

Where there is a conflict between the Code and the Code Guidelines, the Code provisions will prevail.

Please refer to the ADMA website for Code Guidelines.

### GOVERNANCE

The Code is administered by the ADMA Code Authority - acting under the AADL Code Authority Charter, a copy of which is available on the ADMA website.

# ADMA

PART OF THE  
 Australian Alliance for Data Leadership  
NETWORK

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