

ADMA Code of Practice: Questions & Answers

Why did ADMA rewrite its Code of Practice?

The Code has not been updated since 2006. Over the last few years, the marketing and advertising landscape has been evolving rapidly thanks to the increasing use of data and technology, and the arrival of newer marketing channels such as mobile, digital and social.

The ADMA Code of Practice needed to be in step with these changes. We also needed to wait for the implementation of the changes to the Privacy Act so that we could ensure that our Code was consistent with the new legislative provisions.

The revised ADMA Code of Practice ushers in a new era of industry-self regulation for the new world of data-driven marketing and advertising.

What does the new Code do?

The ADMA Code of Practice provides a principle-based, agile compliance framework that places consumers' interests at its core and gives marketers the support and guidance they need to make responsible decisions about data, technology, creativity, content and customer experience. It is underpinned with more detailed guidelines and Code resources which will be developed as required and located on the ADMA website (www.adma.com.au).

The future of marketing and advertising self-regulation will be shaped by the behaviour and ethical decision-making of organisations in their data and marketing practices. The new Code provides the guidance they need to make good choices in a fluid, data-driven ecosystem.

Why is the ADMA Code of Practice necessary?

The Code is about conducting good business practice. In the new era of data-driven marketing, the future expansion of the industry depends on consumer confidence in how marketers and advertisers conduct their business especially around personal information and privacy. As well, with more channels available, there is a greater onus on marketers to be seen as transparent, ethical and honest in their dealings with consumers.

The regulatory developments over the last decade mean that data-driven marketers and advertisers face a complex regulatory regime. The Code assists companies with compliance but, more importantly, allows industry to be flexible and agile, setting benchmarks which establish best practice. Legislation rarely evolves at the same pace as the industry it seeks to regulate, so customer-centric self-regulation becomes imperative in order to avoid innovation-killing and industry-stifling intervention.

Ultimately, what we are striving for is greater consumer trust and confidence in the integrity of our members. The ADMA membership logo should be seen as a badge of trust. Member companies want consumers to understand that they take their compliance obligations serious and to them the ADMA logo, and what it signifies, demonstrates to consumers their commitment to compliance.

Consumers should be reassured by the fact that compliance with the Code is mandatory for members and that if something does go wrong there is an independent, no-cost, expedient avenue for resolution through the Code Authority. Not only does the Code represent a win for consumers

but it contributes to the commercial growth and corporate sustainability of ADMA. Pragmatically, consideration of complaints by the independent Code Authority also provides a speedy, low cost alternative for Members.

Isn't this just more regulations and restrictions?

No. The changes are updates that are necessary for the new era of marketing and to prove that self-regulation works. The Code is designed to minimise the threat of heavy-handed government legislation which could be imposed upon industry by regulators if it is perceived the industry is not operating ethically and honestly. That could have negative consequences for the industry.

Does the Code add more requirements than the law?

No. The Code reflects broad regulatory principles and provides a roadmap to relevant regulatory provisions. The Code framework allows for Code Guidelines to be drafted where guidance is needed and Code Resources will be made available on the ADMA website. In the event that there is a conflict between the Code and regulatory provisions the later will prevail. The Code does encourage members to go "beyond compliance" in meeting consumers' expectations. This can enhance brand perception as it may be seen as a point of differentiation.

What are the benefits to consumers in this Code?

ADMA protects, supports and champions excellence in data-driven marketing and advertising. The Code challenges members to put consumers' interests first, aligning self-regulation with a culture of consumer-centric marketing. The new principles-based Code of Practice requires members to consider the target audience when scheduling the delivery of commercial communications by whatever channel. They must operate fairly, honestly and transparently. When using data from third parties, they must satisfy themselves it has been properly sourced, permissioned and cleaned. They must also accept responsibility for actions taken on their behalf by subcontractors and other suppliers here and overseas.

For consumers, ultimately the Code represents peace of mind. They know when they are doing business with an ADMA member company their personal information will be protected and handled responsibly and their privacy respected. They will also be reminded if they have a problem regarding their dealings with an ADMA member, there is an independent process to deal with the complaint, namely the Code Authority who will continue to investigate unresolved consumer complaints. This process is free for consumers and provides a speedy resolution to consumer issues with subsequent guidance not only to the member concerned but to all members and industry generally as the Code Authority will issue de-identified guidance notes relating to decisions made.

What is the role/structure of the ADMA Code Authority?

The Code Authority is an independent complaints handling body. Its job is to see that marketers and advertisers comply with the Code and investigate any unresolved consumer complaints. In short, it offers consumers an impartial process to deal with complaints. The Code Authority comprises seven members: an independent chairman, three consumer representatives and three industry representatives. It provides an efficient and quick avenue for addressing consumer complaints in a cost-effective forum. In addition, the Code Authority's determinations will help industry to navigate the increasingly complex regulatory and ethical landscape.

What is new about the Code Authority?

Several Code Authority members are new and are experts in the new regulatory and ethical landscape. Also new is that the Code Authority will now charge members and non-members to review complaints in a cost-effective forum. Non-members may elect to have matters considered by the Code Authority but will pay a higher fee than members. The fees charged are nominal and are based on a cost-recovery model. Fees are not designed to create a revenue stream.

How does ADMA guarantee the impartiality of the Code Authority?

The Code Authority contains equal numbers of industry and independent/consumer representatives who will be fair and impartial in their dealings with marketers and consumers. Industry representatives have been selected for their stature within the marketing and advertising community as holding high standards of conduct/ethics amongst their peers. The consumer reps will naturally have consumers' interests at heart.

If a Code Authority member has a conflict of interest in considering a complaint they are obliged to absent themselves from the consideration.

Who must abide by the Code?

The Code binds all ADMA members as compliance with the Code is a mandatory condition of membership.

What about non-members?

If we become aware of a consumer complaint against a non-member company, ADMA will inform the organisation about the Code and attempt to seek compliance. A non-member can elect to have the Code Authority consider the matter, if they do so a higher fee will be imposed than that paid by members. If the non-member does not elect to have the Code Authority consider the compliance or if the complaint remains unresolved, it will be referred to the appropriate state or federal authorities. The Code Authority can also recommend that the non-member be denied ADMA membership until complaints have been resolved.

What kind of penalties do members face if they breach the Code?

The Code Authority can recommend any penalties or sanctions that befit the circumstances up to and including expulsion of the offending member from ADMA. The commercial penalty of being expelled from ADMA is severe with potential reputational damage.

How many times can a member breach the Code before they are expelled?

If the member has breached the Code more than twice in a 12-month period, the Code Authority may recommend that membership be revoked.

Would you publish the names of those companies you expel?

Yes, we would publish this information on our website and in our annual report.

Isn't it true that most of the problems in the industry come from non-members?

As in any other industry there will always be bad players or those who are not clear about their regulatory obligations. It is every consumer's responsibility to ensure they are dealing with a reputable organisation. The Code helps consumers recognise responsible marketers with whom they

Isn't this a paper tiger exercise?

No. The Code is updated to reflect the new marketing and advertising landscape. We have a strict independent complaints handling process and will not be afraid to exercise harsh sanctions on members and non-members who flout the rules.

Who has been involved in getting this Code off the ground?

We have consulted extensively with members, government regulators and consumer bodies over a two-year period to ensure we are taking the Code in the right direction. We have looked overseas for best practice in other jurisdictions and have based our approach on the UK model which also adopts broad principles.