

The Code was reviewed and updated in July 2021

Telemarketing Code of Practice

This Code of Practice and Guidelines has been developed by the Marketing Association for the purpose of promoting best practice by those engaged in telephone marketing. It has the full endorsement of the Telecommunications Users Association of New Zealand (TUANZ) and the Contact Centre Institute of New Zealand (CCiNZ).

Definitions

1. “Appropriate industry Codes of Practice” includes the Advertising Codes of Practice of the Advertising Standards Authority and all other industry codes endorsed by the New Zealand Marketing Association.
2. “Consumers” are customers or potential customers, whether they are members of the public, organisations or businesses.
3. “Telemarketing” is the practice of communicating via the telephone for the purpose of generating business, charitable donations, or enhancing relationships with customers or potential customers.
4. “Telemarketer” is a person engaged in the practice of telemarketing and/or customer service via the telephone.
5. “DNC” is the NZ Marketing Association’s “Do Not Call” Register.

The Code is based on four complementary principles that should be considered collectively. They match the requirements of the [Code of Practice for Direct Marketing in New Zealand](#).

PRINCIPLE 1 : Telemarketers must comply with the spirit as well as the wording of the laws of New Zealand and all appropriate industry Codes of Practice.

The Code assumes that organisations already comply with all New Zealand Law, and is written to establish standards of customer service over and above the customer's legal rights.

COMPLIANCE GUIDE

1(a) **Consumer Laws** : Organisations involved in telemarketing must comply with consumer protection laws; in particular, the Consumer Guarantees Act, the Fair Trading Act and Credit Contracts and Consumer Finance Act, which all include consumer rights provisions.

1(b) **Individual Privacy** : Telemarketers must be familiar with The Privacy Act and the 13 Privacy Principles which are the core of this legislation. Telemarketing activities, particularly with regard to the collection and storage of personal data, must comply with the Act. Refer to www.marketing.org.nz for an easy reference guide to implementing the 13 privacy Principles.

1(c) **The Telecommunications Act** : Under the Telecommunications Act it is an offence to use, or cause or permit to be used, the telephone for the purpose of disturbing, annoying, or irritating any persons.

PRINCIPLE 2 : Offers will be clear and truthful and not present a product, service, or offer in such a way that the consumer could be misled.

COMPLIANCE GUIDE :

2(a) **Identity and purpose** : At the commencement of the call, telemarketers must clearly disclose their identity and state the general purpose of their call.

2(b) **Selling under the guise of research** : Offers or solicitations must not be made in the guise of research or survey when the real purpose is to sell, or to raise funds.

2(c) **Organisation's contact details** : The name and telephone number of the organisation on whose behalf calls are made must be available to the recipient of the call.

2(d) **Calling line identity** : When making an outbound telemarketing call, callers must not block the transmission of the calling line identity to any calling number or calling name display of a customer who receives the telephone call. Where technically feasible, callers should ensure that when outbound calls are made from within the organisation, the number which is transmitted or displayed on receiver is a telephone number which is suitable for return telephone contact by an individual.

2(e) **Duration of survey calls** : If the call is a survey, telemarketers must state honestly the expected length of the call.

2(f) **Clarity of offer** : All offers must be clear, honest and complete so that the recipient of the call is in no doubt as to what is being offered and the commitment involved in placing an order.

- 2(g) **Price comparisons** : When price comparisons or price reductions are included, they must be factual and verifiable.
- 2(h) **Testimonials** : When testimonials are used, they must be current and typical, from bona fide users of the products or services offered, in the possession of the seller or readily accessible.
- 2(i) **Guarantees** : When a money-back guarantee, or any other guarantee, is included as part of the offer, the terms of that guarantee must be clearly stated and confirmed in writing as part of any contractual obligation. These guarantees do not affect the guarantees under the Consumer Guarantees Act 1993.
- 2(j) **Bonus items** : When a bonus item is offered conditionally on the purchase of another item, those conditions must be clearly stated and confirmed in writing if requested.
- 2(k) **Contest rules** : When contests or prizes are used to promote a sale of merchandise, the rules of the contest must be clearly stated. Any such contests must comply with New Zealand law.

PRINCIPLE 3 : Telemarketers will carry out their business in a way that is socially responsible.

COMPLIANCE GUIDE :

- 3(a) **Hours of calling** : Telephone calls to private homes should only be made between 8.00 am and 9.00 pm, unless the caller is advised that a call at another time would be more convenient and acceptable.
- 3(b) **Sundays and Public Holidays** : Calls should be avoided on Sundays and public holidays, unless the caller has reasonable grounds to believe that the call will be readily acceptable, or the consumer has advised a specific time to call them back.
- 3(c) **Unlisted/unpublished numbers** : Unlisted or unpublished numbers must not be called, unless provided by the subscriber.
- 3(d) **Opportunity to refuse offer or appointment** : Telemarketers must provide the consumer with a clear opportunity to refuse any appointment or offer. A definite refusal must be accepted and the call ended promptly. Consumers must not be harassed.
- 3(e) **Offers to children** : No products may be offered to children if that offer would be contrary to New Zealand law. Orders must not knowingly be taken from children without adult approval. [Note: The Advertising Standards Authority defines children as “all persons below the age of 14”. Under the Minors’ Contracts Act, contracts are not enforceable with persons under the age of 18.]

3(f) **Prohibited goods or services:** Telemarketers must not market prohibited goods or services.

3(g) **Removal of name/s from telephoning lists:** If requested to do so, telemarketers must flag the name of any person "Do not call" on their telephoning list and on lists that are offered to other organisations. As far as practicable, such persons should be informed of the existence of the Marketing Association's DNC Register, and given the opportunity to have their name listed on that Register. In such cases, the telemarketer should direct the person to the Marketing Association's website – www.marketing.org.nz – where they will find a link to the DNC service on the home page.

PRINCIPLE 4 : Telemarketers will uphold high standards of business practice.

COMPLIANCE GUIDE :

4(a) **Termination of conversation :** If a wish to terminate the conversation is expressed by the called party, then the caller should terminate the call as soon as possible.

4(b) **Use of Name Removal Register before prospecting :** All telemarketers must, before making new solicitations, check the list of people to be called against the Marketing Association's Do Not Call (DNC) Register and delete from the call list those people listed on the Register. The DNC is available in real time by subscribers and should be accessed prior to any new outbound telemarketing campaign. This requirement does not apply when calling existing members or customers.

4(c) **Deception to obtain names :** When making prospecting calls, deception must not be used to obtain the names of people to call.

4(d) **Workplace contact :** Unsolicited approaches by telephone on private business must not be made to people at their place of work without prior permission.

4(e) **Means of contacting organisation :** All documents confirming a transaction must contain means by which the customers may contact the organisation. A contact telephone number and/or email address must be given so that any appointment may be altered or cancelled.

4(f) **Convenience of call :** Telemarketers should ask the recipient if it is a convenient time to call. If it is not, an offer should be made to call back at a more convenient time.

4(g) **Substantiation of claims :** Telemarketers must be able to substantiate any claims or offers made. Statements which are untrue, misleading, deceptive, fraudulent, or unjustly disparaging of competitors must not be used.

4(h) **Terms and conditions :** When finalising any agreement, the telemarketer must clearly state the total cost, all terms, conditions and payments plans, the consumer's right to cancel the agreement, and how to cancel the agreement, plus the amount or existence of any charges such as shipping or handling. Any contract or agreement completed as a result of an uninvited call must comply with the requirements of the Fair Trading Act. In particular, the agreement must be in writing, expressed in plain language, be legible, and be clearly presented. The front page of the agreement must contain a clear description of the goods or

services, a summary of the consumer's right to cancel, the supplier's name and contact details, the consumer's name and address and the total price payable (or how it will be worked out). The agreement must also be dated.

4(i) **Copies of documents** : Copies of all relevant documents, agreements, contracts and/or statements of legal rights must be sent to customers within five (5) working days of agreeing terms.

4(j) **Cooling-off period** : A five (5) working days "cooling off" period must be allowed following the receipt of any new contract. During this time the agreement may be cancelled by the customer without penalty, and any initial payment or deposit must be refunded promptly and in full. The customer is to be informed of this "cooling off" period, both at the time that the offer is made and in the written contract itself. If you have supplied services in the "cooling off" period and the customer cancels the agreement during that period, you are not entitled to be paid for the services you have supplied.

4(k) **Confirmation of credit card details** : If a customer agrees to pay for goods and/or services offered by the telemarketer on a credit card and supplies details over the phone, all relevant card details must be read back by the telemarketer, who must be satisfied that the customer understands that the transaction will be charged to that credit card. Compliance with Payment Card Industry Data Security Standards (PCIDSS) is recommended to ensure the security of credit card numbers, particularly when calls are recorded

4(l) **Recording telephone calls** : Recordings of telephone conversations may be used to verify the content of the call or for training purposes and quality control. Consumers must be advised when a call is to be recorded to verify the content of the call. Recorded calls may not be played in public without the consent of both parties to the call.

4(m) **Automatic dialling systems** : Automatic dialling systems with a recorded message must only be used as follows :

- I. The equipment may only be connected to "business" or "non-residential" lines or mobile phones where consent has been given to contact via this medium.
- II. The equipment shall terminate the call if it is not answered within 90 seconds of transmission of the final digit of the called party's number
- III. The identity of the caller shall be made clear at the beginning of the call
- IV. No calls are to be made to emergency services, hospitals or such bodies
- V. Equipment shall not be used under any circumstances which constitute a nuisance

4(n) **Disclosure of use of automatic dialling system** : It must be made clear at the beginning of such a call that it is automated, giving the called party the opportunity to terminate it should they wish.

Marketing Association
P O Box 137266
Parnell
AUCKLAND 1151
www.marketing.org.nz
Email contactus@marketing.org.nz