

FOREWORD

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1.0 INTRODUCTION

self-regulation	1.1	The Association seeks to maintain and support an effective and credible system of self-regulation that meets the reasonable expectations of consumers and businesses regarding the conduct of the direct marketing industry and the Association's member companies.
this Code	1.2	This Code of Practice sets standards of ethical conduct and best practice that members must adhere to, as a condition of membership. Its purpose is also to promote the highest quality standards in the industry as a whole and greater consistency in practices.
practice notes	1.3	When necessary, the Association will issue Practice Notes giving additional guidance on particular aspects of the Code.
the Authority	1.4	The Association has established the Direct Marketing Authority, which is responsible for monitoring the Code. [See Section 12.]

2.0 INTERPRETATION

application	2.1	The Code applies to the direct marketing activities of members.
must	2.2	The use of the word "must" indicates that a requirement is compulsory for members, either because it is law or because it is considered by the Association to be essential to good direct marketing practice.
should	2.3	The word "should" is used where a requirement is considered best practice. Members are expected to adhere unless there is good reason not to.
advertisement	2.4	Definitions The term "advertisement" is to be taken to include all forms of direct marketing communication, including any sales promotion and fundraising, whether or not it contains an offer or an invitation to treat.
individual	2.5	The term "individual" means a private person at a home address. The term "consumer" means a person acting in a private capacity and not for the purposes of a trade or profession. The terms "customer, respondent and participant" refer to people, whether or not in their private capacities.
personal information	2.6	The term "personal information" means information relating to an individual, held in a form in which the individual can be identified, and could include as little as name, address and telephone number.
the Authority	2.7	"The Authority" means the Direct Marketing Authority. [See Section 12.]
the Board	2.8	Any reference to "the Board" means the Board of the Association.
minors	2.9	Any reference to "minors" means those under 18.

3.0 GENERAL OBLIGATIONS FOR MEMBERS

spirit & letter	3.1	Compliance Members must comply with the spirit as well as the letter of the Code.
conclusions of the Authority	3.2	Members must comply with any conclusion reached by the Authority, including a decision to take disciplinary action resulting from a breach of the Code. [See Section 12.]
annual report	3.3	Members should report on their performance in relation to the Code by completing the questionnaire circulated annually by the Authority. [See para 12.12.]
BCASP	3.4	Members must comply with the provisions of the British Codes of Advertising and Sales Promotion.
legislation	3.5	Members must comply with all relevant legislation and must recognise that compliance with the Code does not necessarily guarantee that they are acting within the law. Appendix 2 lists principal legislation relevant to direct marketing although this list is not exhaustive. Any breach of relevant legislation may be considered a disciplinary matter.
best practice guidelines	3.6	Members should refer to the Association's series of Best Practice Guidelines. Compliance with these guidelines is not compulsory but the extent to which a member has followed them may be considered relevant by the Authority in any adjudication.
other codes	3.7	The Authority may take into account any breach of other relevant codes of practice in reaching its decisions.
mailing standards levy	3.8	Unless specifically exempted by Royal Mail, members must pay the Mailing Standards Levy on their postage invoices or have in place an equivalent arrangement with the Advertising Standards Board of Finance (ASBOF).
conduct	3.9	Conduct In all their dealings with consumers, other businesses and each other, members must act decently, fairly and reasonably, fulfilling their contractual obligations at all times.
"sugging"	3.10	Members must not misrepresent themselves as carrying out research or a survey when the real purpose of the contact is to sell goods or services. [See para 9.9.]
"dugging"	3.11	If members are collecting personal information for the purposes of research or a survey and also intend to use this information for other uses, such as making offers to respondents, they should make these other purposes conspicuously clear. [See para 4.9.]
image	3.12	Members must ensure that they do nothing which could damage the public image of direct marketing or of the Association.

third parties	3.13	Members must accept that in the context of this Code they are normally responsible for any actions (including the content of advertising) taken on their behalf by their sales agents, their agencies, their direct marketing suppliers and others.
non-members	3.14	A member acting as an agency or supplier for a non-member's direct marketing activity must advise the non-member to act within the Code. If the non-member client does not take that advice, the member must insist that the Code is followed, in respect of work in which the member is involved, as a condition of acting for the client.
use of symbol	3.15	The Association Symbol Members should include the Association symbol in their direct response advertising or selling communications and in all correspondence, including invoices, to their customers and the public. It must not be used on products or packaging, or in any way that implies endorsement by the Association of any particular product. It may be used only by members.
	3.16	The symbol is a trademark of the Association and the copyright remains the property of the Association. The Association reserves the right to object to its use in any way thought to be inappropriate. Members' attention is drawn to Appendix 1 which gives further guidance on the use of the symbol.

4.0 USE OF DATA

GENERAL RULES

scope of rules	4.1	<p>The General Rules cover the use of personal information for direct marketing purposes. They apply to all members, whether they are acting as data owners, data users, list brokers, list managers or data processors and whether they are involved in mailing, telephone or fax marketing or any other direct marketing communication. They apply whether or not payment is made and include "list swaps" and other exchanges of data.</p> <p>In this section and in section 5 the word "list" means personal information held for direct marketing purposes which is normally accessed by reference to names and addresses and is in the form of a list. "Data" is a wider term meaning information used for any direct marketing purposes, however it is accessed and whether or not it is in the form of a list.</p>
BCASP	4.2	Members must not use or supply any data for mailing purposes unless such use or supply complies with this Code and with the British Codes of Advertising and Sales Promotion. [See paras 5.4 and 5.25.]
telemarketing	4.3	Members using data for telemarketing purposes must ensure that the use complies with this Code and in particular with Section 9. [See para 5.25.]
data protection	4.4	Data Protection Members must comply with all relevant data protection legislation.
collecting data	4.5	<p>Members collecting personal information from individuals must inform them at the time of collection:</p> <ul style="list-style-type: none"> a) who is collecting it, and b) why it is being collected <p>except where this is obvious from the context or where the individuals already know.</p> <p>If it is intended to disclose that information to others (including to associated companies), the member must also inform the individuals of that intention, unless they already know, and give them an opportunity to object before the first disclosure.</p>
information from public sources	4.6	Where members collect personal information from public sources, they do not need to comply with para 4.5 above but personal information obtained from such public sources must be processed fairly.
use of data	4.7	If, after collecting personal information from individuals, members decide to use it for a purpose that is significantly different from the one originally intended, they must first advise those individuals and allow thirty days for objections to be received.

significantly different use		<p>A significantly different use is:</p> <ol style="list-style-type: none"> the disclosure of personal information to third parties for their direct marketing purposes, or the use or disclosure of personal information for any purpose(s) substantially different from the purpose(s) for which it was collected and which individuals could not reasonably have foreseen and to which it is probable that they would have objected if they had known.
new ownership	4.8	If members acquire ownership of personal information and use it for a purpose which is significantly different from the one originally intended by the former owner, then they must, unless obvious, advise individuals of the new purpose and of their right to object.
sponsored questions	4.9	When members are collecting personal information on behalf of a third party by means of sponsored questions in a lifestyle questionnaire or similar, they must disclose the name(s) of the sponsor(s) at the time of collection.
extent of data held	4.10	The extent and detail of personal information held for any purpose must be adequate, relevant and not excessive for that purpose.
accuracy of data	4.11	Personal information held by members must be accurate and, where necessary, kept up to date.
data security	4.12	Personal information must always be held securely and must be safeguarded against unauthorised use, disclosure, alteration or destruction.
use for telemarketing	4.13	Members must not make a telephone marketing call to individuals who have offered their name and address unless either the individual has supplied that telephone number to the member or the telephone number has been checked against the members' in-house "do not call" list [see para 9.24]. The possibility of a telephone marketing call does not need to be mentioned at the time of data collection. <i>[Note: this does not reflect current guidance from the Data Protection Registrar.]</i>
host mailings	4.14	If advertisers make host mailings (ie enclosing third party material in their mailings) on the basis of selective criteria they must advise their customers of this, otherwise individuals might divulge personal information to third parties without realising they were doing so.
business lists	4.15	Business Lists A business list used to market personal products to individuals on that list may come within the scope of the Data Protection Act and members must act accordingly.
business lists	4.16	A business list containing people's names may still be considered a business list as long as the list or selections from it are used only to make business offers to people in their capacity as job holders. Such a list might nevertheless come within the scope of the Data Protection Act. This is likely to be the case if people's names are held for anything more than simply ensuring the mailing reaches the right part of the business. A simple test is whether, if the job holder changes, the data (other than the job holder's name) will change in any way. If they will, the Data Protection Act is likely to apply.

business lists	4.17	A business list which contains known individuals (that is private persons at their home addresses) either must be treated as a consumer list for the purposes of para 4.29 or it may be used as a business list if those individuals are excluded.
copyright	4.18	Copyright Members should note that publishers of directories normally reserve the right to restrict the use of their directories for marketing purposes and members intending to use directories should take adequate steps to ensure that there is no bar to the intended use.
MPS	4.19	Suppression Files Members must ensure that no consumer list is used for mailing purposes unless it has been cleaned against the Mailing Preference Service (MPS) file.
	4.20	Members must ensure that such a list is cleaned against the most recent MPS file no more than 3 months before supply, although a user may choose to clean it again before use.
	4.21	Members may use their own list (ie a list of those with whom they have an established relationship) without cleaning against the MPS file.
TPS	4.22	Members must ensure that no consumer list is used for telephone marketing purposes unless it has been cleaned against the Telephone Preference Service (TPS) file.
	4.23	Members must ensure that such a list is cleaned against the most recent TPS file no more than 3 months before supply, although a user may choose to clean it again before use.
	4.24	Members may use their own list (ie a list of those with whom they have an established relationship) without cleaning against the TPS file.
TPS/MPS addresses	4.25	If a member is informed by an individual that they wish to reduce the number of consumer mailings or telephone marketing calls they receive from all sources or is informed by an individual of a death, then the member should invite the individual to contact as appropriate MPS (at Freepost 22, London W1E 7EZ) or TPS (on 0800 398893 for BT customers, on 0500 398893 for Mercury customers) or by contacting directly any other telecommunications supplier.
deceased file	4.26	Files of deceased persons must only be used by members for suppression purposes and never for marketing.
FPS	4.27	Members who use the fax to send marketing messages to people at residential premises with whom they have no on-going relationship must use the Fax Preference Service.
non-UK preference files	4.28	Where individuals are targeted outside the UK, members are encouraged, where possible, to use any local preference service files.

list warranties consumer lists	4.29	List Warranties Members must make use of List Warranties in all their consumer list rental and exchange activities and adhere to the provisions contained in them.
list warranties business lists	4.30	Members are recommended to make use of List Warranties in their business to business list rental and exchange activities. [See 4.15 to 4.17.]
list warranty register	4.31	Members are strongly recommended to make use of the List Warranty Register which records details of available warranties on a database allowing quick response to enquiries from owners, brokers, users and managers. For information, telephone 0171 6310904 or write to 248 Tottenham Court Road, London W1P 9AD.

5.0 USE OF DATA

SPECIAL RULES

special rules	5.1	<p>This section is divided into separate requirements for data owners, data users, list brokers, list managers and data processors but members should note that at any one time they could be acting as one, all, or a combination of these and must therefore comply with all the following provisions. They apply whether or not payment is made and include "list swaps" and other exchanges of data.</p> <p>In this section and in section 4 the word "list" means personal information held for direct marketing purposes which is normally accessed by reference to names and addresses and is in the form of a list. "Data" is a wider term meaning information used for any direct marketing purposes, however it is accessed and whether or not it is in the form of a list.</p>
data owners	5.2	<p>Data Owners A data owner is a person or organization with proprietary rights in any data which may be used for direct marketing purposes, including any consumer or business list. These rights include any copyright or similar right that may exist in such a list.</p>
quality of data & data owners	5.3	<p>Data owners must not use data containing personal information or make such data available to others unless the data is accurate and up to date and in particular:</p>
deceased names & data owners		a) it has been updated with the names of deceased individuals as soon as possible before the time of use or at least within the previous 30 days
inaccurate data & data owners		b) it has been updated, normally within the previous 30 days or at the latest within the previous 60 days, with requests from individuals for the correction or deletion of inaccurate data or the marking of disputed data
"gone-aways" & data owners		c) it has been updated with corrections (including those in respect of whom it is reasonable to conclude are no longer residing at the addresses held) within the previous 30 days or if this is not possible at least within the period specified in their list warranty
MPS/TPS/BCASP & data owners		d) it complies with paras 4.19 to 4.24 and 4.27 and the authorised use complies with para 4.2 where applicable.
BCASP & data owners	5.4	<p>Data owners must ensure that any intended use of their list complies with this Code and with the British Codes of Advertising and Sales Promotion and should therefore satisfy themselves that any planned advertising is acceptable under the Codes before making lists available. [See paras 4.2 and 5.25.]</p>
re-use and late use for data owners	5.5	<p>If data owners are informed that a list is to be used or re-used more than 6 months after supply and it is agreed between the parties that the use may proceed, the data owner must either supply an up-dated list if available or supply a list to the data user of any suppressions or relevant corrections. [See para 5.22.]</p>

return of "gone-aways" & data owners	5.6	Data owners must encourage data users to return "gone-aways" and "undeliverables" to them unless they have an alternative system for identifying "gone-aways". [See paras 5.16 and 5.21 (c).]
level of "gone-aways" & data owners	5.7	If data owners anticipate that the percentage of "gone-aways" or "undeliverables" exceeds 3% for a "responder" list or 6% for a "compiled" list, the data user must be so informed. If the actual percentage of "gone-aways" exceeds these levels without prior notification then members should have in place a policy of re-imbursement.
information on data & data owners	5.8	Data owners must ensure that any information supplied about data is accurate and take reasonable steps to see that the information provided by any appointed list managers or list brokers is not misleading or incorrect.
seed names & data owners	5.9	Data owners are recommended to ensure that a list is adequately seeded to identify unauthorized or improper use. [See para 5.32.]
responsibility & data owners	5.10	Data owners remain primarily responsible under the Code for compliance with paras 5.3 to 5.8 even when a List Manager is assigned any of these responsibilities on the data owner's behalf. [See para 5.12.]
list managers	5.11	List Managers A list manager is a person or organisation appointed by a data owner to market or sell specific lists and to deal with enquiries and orders.
responsibility & list managers	5.12	If list managers are assigned any of the responsibilities of a data owner for compliance with paras 5.3 to 5.8, this is in addition to the data owner's own responsibilities under the Code. [See para 5.10.]
information on lists & list managers	5.13	List managers must endeavour to ensure that all published list information provided for the lists is accurate and up-to-date at the time of enquiry.
information on exclusivity & list managers	5.14	When advertising lists or publishing list information, list managers must state clearly if they are not the exclusive manager of the list. [See para 5.18.]
list brokers	5.15	List Brokers A list broker is a person or organisation appointed to represent the data user and is responsible for recommending suitable lists and negotiating on the data user's behalf with data owners and/or their list managers.
return of "gone-aways" & list brokers	5.16	List brokers should make every effort to encourage their clients to return to the data owner mailing pieces received as "gone-aways", "deceaseds" or "undeliverables". If these are returned via the list broker, then the list broker must send them to the data owner so that they arrive within the time periods laid down in 5.21. [See also para 5.6.]
responsibility & list brokers	5.17	If list brokers are assigned any of the responsibilities of a data user for compliance with paras 5.20 to 5.34, this is in addition to the data user's own responsibilities under the Code.
interest in lists & list brokers	5.18	List brokers must disclose any interest, as owner or manager, in lists they are offering to supply. List brokers must avoid appearing to be list managers if they are not. [See para 5.14.]

data users	5.19	Data Users A data user is an advertiser or other organization making use either of its own data or of data obtained from other sources for any direct marketing purpose.
responsibility & data users	5.20	Data users remain responsible for the uses to which data is put.
	5.21	Following the use of a list, data users must:
deceased names & data users		a) advise the relevant data owner, as soon as practicable but normally within 30 days of being notified, of the names of deceased individuals
inaccurate data & data users		b) advise the relevant data owner, normally within 30 days or at least within 60 days of notification, of any requests from individuals for the correction or deletion of inaccurate data or the marking of disputed data
"gone-aways" & data users		c) identify from which list mailing pieces returned as "gone-away" or "undeliverable" were generated and where relevant return these pieces to the appropriate data owner (or through the list broker) as soon as practicable and normally within 60 days of receipt of such notification unless the data user is advised that the data owner has an alternative system for identifying "gone-aways".
re-use and late use & data users	5.22	Data users must not use or re-use lists or selections from lists that are more than six months old unless they have been updated [see para 5.5]. If a list or selections from a list are to be used or re-used more than six months after supply, data users must either return the list to the data owner or, if it is agreed between the parties that the use may proceed, obtain and process an up-dated list or the appropriate suppressions or relevant corrections from the data owner.
data security & data users	5.23	Data users must ensure that rented or exchanged data and copies of any part of such data are kept secure and are safeguarded against unauthorised use, disclosure, alteration or destruction.
data use	5.24	Data users must ensure that rented or exchanged data are used only for those express purposes for which permission has been given by data owners or their agents in advance of that use and must specify whether the data are to be used for mailing, telephone or any other designated use.
sample mailing or tele-script & data users	5.25	If data are to be used for marketing purposes data users must forward a copy of the mailing piece or telemarketing script to the data owner on request. [See paras 4.2, 4.3 and 5.4.]
one-time use & data users	5.26	In the absence of any contractual provision to the contrary, a one-time use of a rented or exchanged list for mailing purposes would normally permit the data user to perform any or all of the following processes: <ul style="list-style-type: none"> a) format conversion b) merge/purge (including use of any suppression files)

- c) application of selection criteria (including profiling, regression etc)
- d) mailsort coding and reporting
- e) statistical analysis (including levels of duplication with other lists)
- f) formatting for output or printing
- g) printing of letters, labels etc.

One-time use also normally allows data users to take note of the number of occurrences of a particular name and address, across all files, and to use that information in the decision making process of selection. However, this information must not be recorded in the data user's own (master) files for future use unless specifically agreed by the data owner.

further use by data users	5.27	If data users wish to make further use of the data beyond those processes mentioned above, including suppression and/or follow-up mailings, then the permission of the data owner must be negotiated before such further use takes place and normally within three months of the original use.
holding a list & data users	5.28	A list must not be kept for longer than is necessary to fulfill the purpose(s) for which it was acquired, but in any event for no longer than three months after the original use and no more than six months after the list was supplied, unless otherwise expressly agreed by the data owner.
"net names" & data users	5.29	<p>If a list has been obtained under a "net name" arrangement data users must not use those names excluded during the merge/purge process for any other purpose, except where</p> <ul style="list-style-type: none"> a) the names selected from an individual list fall below the minimum agreed level and b) the data owner agrees that the shortfall may be used within an agreed timescale and for an approved promotion. <p>If a data user obtains a list without a "net name" arrangement, then the data user has the right to use each name on each list, once only, including their use in the processes listed in para 5.26, if required.</p> <p>A "net name" is a name which survives a merge/purge operation.</p>
response & data users	5.30	Once a list has been used for the purpose(s) approved by the data owner, the data user must not further contact any individuals on that list, or continue to hold information on those individuals, unless having received a response as a result of a legitimate use of the list.
telephone response & data users	5.31	If the list has been used for telephone marketing, a response would normally be where the individual has shown sufficient interest in the goods or services offered to indicate that they have taken the preliminary steps towards the conclusion of a contract. This would not normally include the consent of the person canvassed to be recontacted at a later date, unless otherwise agreed by the data owner.

seed names & data users	5.32	Data users must accept that any unauthorised or improper use of a seed name [see para 5.9] entitles the data owner to claim recompense for the use of the whole list supplied to them, whether or not the whole list was improperly used.
swaps & data users	5.33	If data users swap or exchange data of which they are owners, all aspects of this Code must be followed.
copyright & data users	5.34	Data users must accept that copyright in data rented or exchanged remains with the data owner unless it is clearly transferred by contract.
data processors	5.35	Data Processors A data processor is a person or organisation (eg a data owner, computer bureau or a mailing house) who stores and/or causes data to be processed automatically.
data security & data processors	5.36	Data processors must ensure that personal information is always held securely and is safeguarded against unauthorised use, disclosure, alteration or destruction.
"sensitive" information & data processors	5.37	Data processors must recognise that security measures appropriate to routine personal information may not be adequate for "sensitive" personal information and must devise their security systems accordingly.
	5.38	"Sensitive" personal information in the Data Protection Act includes racial origin, political opinions or religious beliefs, physical or mental health, sexual life and criminal convictions.
	5.39	Members should note that personal financial information might be considered to be sensitive data by the data subject.
security reviews & data processors	5.40	Data processors must regularly review their physical and automated security measures in the light of technological developments.
access & data processors	5.41	Data processors must regularly review their operations to ensure that access by employees to personal information is limited to those who need to have access to such personal information in the performance of their duties. Members should make it clear to their employees that any unauthorised use or disclosure of personal information is a serious disciplinary matter.
accuracy of processing & data processors	5.42	Data processors must take reasonable steps to ensure accuracy in their data processing and matching, particularly in reference to suppression, tagging and merge-purge, screening and sortation etc.
one-time use & data processors	5.43	If asked to process personal information in a way which differs from the normal practices set out in para 5.26, data processors must satisfy themselves that the data user has the approval of the data owner to process in this way.

6.0 ADVERTISEMENTS AND OFFERS

GENERAL RULES

BCASP	6.1	Members' attention is drawn to Section 3 of this Code and in particular to para 3.4 which requires compliance with the British Codes of Advertising and Sales Promotion.
legal, decent...	6.2	Members' advertising must be legal, decent, honest and truthful. Every advertisement must be prepared and communicated with a sense of responsibility to consumers and society. In particular, members must conform to the accepted principles of fair competition and respect consumers' reasonable expectations of privacy.
offence	6.3	Members must not produce any advertisement that is likely to cause serious and widespread offence, bearing in mind that material which might not be considered offensive in the context of the market as a whole could be when targeted at a particular social group.
substantiation	6.4	Members must not make any claim regarding their products or services unless it can be readily substantiated.
rights in law	6.5	Members must ensure that nothing in an advertisement could reasonably lead respondents to believe that their rights in law are in any way diminished or removed. [See para 7.23.]
clarity	6.6	Members' offers must be clear and unambiguous so that respondents know exactly what they are committing themselves to when responding to an advertisement.
copying	6.7	Members must not copy the promotional material of another member or another's business in a way that might cause confusion between them.
misleading ads	6.8	Members must not issue misleading advertisements or give false or misleading indications as to price, value or quantity.
dummy cheques etc	6.9	Members using formats which might be taken to have intrinsic value, such as cheques or airline tickets, must make clear that such formats are examples only.
information in offer name & address	6.10	Information to be Included in Offers On printed offers members must include the full name and address of the advertiser, outside the coupon area or other response mechanism. A separate address for orders may also be given. Members' registered company numbers must be included on order forms, together with the place of registration, eg Reg No. England. [See paras 9.3 and 9.4 for telephone offers.]
other details to be included	6.11	Unless obvious from the context, offers for goods and services must also include: <ol style="list-style-type: none"> a) the main characteristics of the product or service b) the amount of any delivery charges

- c) the price of the goods or services which, when offered to consumers, must be VAT inclusive and when offered to businesses must be either the VAT inclusive price or must show the amount or rate of VAT payable
- d) any intended time limit on the offer
- e) any other material limitation on the offer and any conditions that affect its validity
- f) the estimated delivery time, which must be no longer than 30 days from receipt of the order (unless it is excepted under para 6.13)
- g) arrangements for payment, delivery or performance
- h) the existence of a right of withdrawal (except in the cases referred to in para 8.10)
- i) the cost of contacting the supplier for ordering or other enquiries if this is more than the standard rate (for example where premium rate telephone numbers are used)
- j) where appropriate, the minimum duration for the supply of products or services which are to be delivered continuously or recurrently.

details to be given 6.12
before or at delivery

If the above information was originally given verbally, it must be confirmed in writing or in another appropriate, durable medium not later than the time the service is performed or the goods are supplied. Where the goods are delivered to a third party later confirmation is acceptable. Unless obvious from the context or if it has not already been given, the following information must also be provided:

- a) how to exercise any right to withdraw
- b) how to cancel any open-ended commitments
- c) other terms and conditions such as guarantees
- d) the members' address where consumers may contact them with a complaint or enquiry.

fulfilment timing 6.13

Fulfilment Timing Members must take no longer than 30 days to fulfil an order unless the member has a fair reason for later fulfillment and has stated clearly in the offer when the order will be fulfilled (or that it may not be fulfilled unless sufficient orders are received). [See paras 6.19 and 6.24.]

late fulfilment 6.14

If it becomes clear that orders cannot be fulfilled within 30 days, members must inform respondents immediately, giving a firm date for despatch or regular progress reports, and giving them the opportunity to cancel. If a customer requests cancellation, members must provide a full refund of any sums paid in advance as soon as possible and in any case within 30 days. Such a request must be accepted even when it is not possible to prevent delivery and in this event the member must meet the reasonable cost of returning the goods.

characteristics	6.15	Characteristics of Goods Goods supplied by members must be of satisfactory quality.
special features	6.16	If any special physical characteristic is likely to influence consumers whether to place an order for a product or service (eg the size, weight or duration) exact details of these characteristics must be given.
goods requiring assembly	6.17	If goods are offered which are likely to require installation or assembly other than by the purchaser, information must be given in the advertisement as to the nature and extent of the work involved. Any additional costs must also be stated.
demand for goods	6.18	Availability of Goods Members must take all reasonable steps to ensure that they do not create a demand which cannot be met but if stocks do become exhausted, members must discontinue all advertising immediately wherever possible.
assessing demand	6.19	If an advertisement is for products which are not yet available, as a way of assessing potential demand, then the advertisement must clearly state this.
substitution of products	6.20	If a product offered becomes unavailable, a substitute may be supplied as long as it has the same or better characteristics, is supplied at the same or lower price and the possibility was set out clearly in the offer. [See paras 8.8 and 8.9.]
"switch selling"	6.21	Members must not use the technique of "switch selling", where respondents are told that the advertised product is unavailable in order to encourage them to purchase a more expensive item.
unsolicited goods	6.22	Unsolicited Goods Members must not send goods or provide services for which payment is requested to any addressee without first having received an instruction to supply such goods or services. [See para 8.7.]
	6.23	Prepayments When a member requires prepayments from consumers then:
cashing of payment		EITHER a) the payment must not be cashed until the product or service is available to be despatched or provided and the order must be fulfilled within a few days of the payment being known to have cleared. (If it becomes clear after the payment has been cashed that the order cannot be fulfilled in a few days, or where only part of the order can be fulfilled, due to temporary stock shortage, then the member must immediately offer to refund respondents unless they prefer to wait, in which case they must be given a firm despatch date or regular progress reports.)
protection schemes		OR b) the member must be registered under a Payment Protection Scheme approved by the Association or the particular advertisement must be covered by an appropriate Mail Order Protection Scheme or the member must make special provisions (such as a bank guarantee, or a deposit in a trust account, or retaining the prepayments in a separate trust account until the orders are ready to be fulfilled) which must be specifically approved by the Association.

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| series of goods | 6.24 | If the order is for a subscription or series then the order is fulfilled for the purposes of paras 6.13 and 6.23 when the first item is despatched, or the service is first made available, to the respondent. |
| post & packing | 6.25 | Post and Packing Charges An advertisement showing a price for goods and services must make it clear whether that price is inclusive or exclusive of non-optional extra charges such as postage and packing. |
| | 6.26 | If the price is exclusive of postage and packing then: <ul style="list-style-type: none">a) the cost of postage and packing, or a phrase such as "plus p&p", must be included with the price sufficiently prominently to ensure that no respondent could be in doubt as to the application of such a charge andb) such a postage and packing charge, as a sum of money, should be detailed clearly on the order form or coupon and in every other place where the terms of sale are set out, or should be sufficiently prominently displayed elsewhere in the advertisement so that, taking the advertisement as a whole, respondents can be in no doubt as to the amount of any charge due. However, where the cost of a postage and packing charge cannot be determined in advance, the order form must show clearly how it will be calculated or refer to a place in the catalogue, etc, where the information is given. |

7.0 ADVERTISEMENTS AND OFFERS

SPECIAL RULES

"editor's choice"	7.1	<p>Club Schemes In schemes involving an "Editor's Choice" or other recommended selection, members must:</p> <ul style="list-style-type: none"> a) make clear to respondents, before any commitment for membership is entered into, the terms of business relating to the supply of such a selection b) on each occasion give reasonable advance notice of the selection to be supplied and give adequate opportunity for the club member to reject the selection or choose an alternative.
advertising to children	7.2	<p>Minors When members are targeting minors (those under 18) advertisements must:</p> <ul style="list-style-type: none"> a) contain nothing which encourages a minor to copy or to carry out any activity which might be dangerous or promote unhealthy or unwise behaviour b) not exploit a minor's inexperience, vulnerability, credulity or natural loyalty c) not make a direct appeal to purchase unless the product or service is likely to be of interest to minors and one that they could reasonably be expected to afford themselves - if in doubt, a requirement for parental permission is advised. <p>Members' attention is drawn to paragraphs 47.1 to 47.5 of the British Codes of Advertising and Sales Promotion which cover advertising to minors.</p>
prize promotions & minors	7.3	Minors must not be eligible to participate in a promotion in which prizes such as, for example, holidays, pet animals, goods or cash are offered which may be likely to cause problems between parent (or guardian) and minor, unless the rules require the written consent of a parent (or guardian).
adult materials to minors	7.4	Members must take care not to send material to minors or otherwise target advertising at minors which is suitable only for adults and must exercise care when packaging products for despatch to adults which may fall into the hands of minors.
credit & minors	7.5	Members must not make offers of credit to those under 18 (Consumer Credit Act 1974) and are advised to include in their offers a prominent statement explaining that credit terms are not available to those under 18.
offensive weapons & minors	7.6	Members must not make offers of offensive weapons to minors as defined in the Offensive Weapons Act 1996 and are advised to double-check all cash payments for such goods.

contracts & minors	7.7	When an offer suitable only for adults is addressed to adults but is particularly likely to appeal to minors then members must take any reasonable steps to identify any respondent as being under 18. Members should also note that contracts are not normally enforceable against those under 18.
lists of minors	7.8	Members must not rent lists known to contain minors under 14 years of age unless a parent or guardian's approval was obtained in writing at the time the information was first collected.
obtaining info from minors	7.9	Members must not attempt to obtain information from minors about other persons for marketing purposes which such other persons would be unlikely to give directly.
tobacco	7.10	Tobacco Members must follow the Association's Rules on Tobacco Direct Marketing [see Appendix 3]. Members advertising or promoting tobacco products must also comply with the Cigarette Code in the British Codes of Advertising and Sales Promotion and with the Voluntary Agreement on Tobacco Products, Advertising and Promotion (administered by the Tobacco Manufacturers Association).
premiums	7.11	Gifts, Premiums and Awards Offers involving gifts, premiums, awards or other sales promotion benefits must state clearly:
details to be included in offer		<ul style="list-style-type: none"> a) how to participate, including any conditions and costs b) the member's full name and address in a form that can be retained by consumers c) any closing date d) any proof of purchase requirements e) any limitation on availability f) any geographical or personal restrictions, including whether permission is needed from an adult g) any other factor likely to influence an individual's decision to respond to the offer or their understanding of the offer.
response deadlines	7.12	If an offer requires a response within a stated period, the deadline must be calculated from the date the mailing is believed to have been received.
demand for promotional offers	7.13	If members are unable to supply demand for a promotional offer because of an unexpectedly high response or some other factor outside their control, products of a similar or greater perceived quality and value or a cash payment must be substituted unless the original offer clearly stipulates alternative procedures. Members must not unfairly represent the chances of receiving a particular gift or award.

publicity	7.14	Members must make clear to individuals before they respond to an offer involving gifts, premiums or awards whether they may be required to become featured in the member's publicity or advertising. Members must not publish detailed information about successful participants without their consent.
use of "free"	7.15	"Free" Offers An advertisement must not describe goods or samples as "free" unless they are supplied at no cost (or at no extra cost to the recipient other than the current rate of postage/actual rates of carriage). The term "free" must not be used if there is any additional charge for packing or handling.
	7.16	A premium must not be described as "free" if the article to be purchased is increased in price or decreased in quantity or quality as a result of the premium offer.
conditional gifts	7.17	A conditional gift or premium may be described as "free" only if the conditions are set out in close proximity to the word "free".
return of goods "on approval"	7.18	On Approval Members must accept the return of goods sent "on approval" or "on trial" as long as they are returned within the period specified in the advertisement. This period must be calculated from the date on which the customer may reasonably be assumed to have received the goods. [See para 8.10.]
cost of return	7.19	"Free" Approval If goods are offered on "free approval", the consumer must not be liable for any costs and the advertiser must be prepared on request to bear the normal cost of returning the goods. [See para 8.10.]
contributions to charity	7.20	Charity-Linked Promotions Members' offers which claim to benefit charities or good causes must name each charity or good cause and state the basis on which the contribution will be calculated. Members must not exaggerate the benefit to the charity or good cause from individual purchases or contributions and must make available on request a current or final total of contributions made.
employee incentives	7.21	Trade Incentives Members must not make any offer which might result in a conflict of interest between employers and their employees unless the member has obtained prior agreement from the employers.
guarantees	7.22	Guarantees On request a member must make available to consumers the full terms of any guarantee or warranty before they are committed to purchase. Any substantial limitations on such a guarantee must be stated clearly in the advertisement.
statutory rights	7.23	No guarantee (which includes any document or form of words) must be issued by a member which might convey to the customer that any statutory or other rights are limited to those described in the guarantee and members must state in all guarantees that the guarantee does not affect their statutory rights.
additional rights	7.24	Members must inform customers about the nature and extent of any additional rights provided by the guarantee, over and above those given to them by law, and if not obvious must make clear how to exercise those rights.

substantiation of testimonials	7.25	Testimonials A testimonial must not be used unless it relates to the product being advertised and the member can substantiate its authenticity. A testimonial must not be used unless it is the genuine and informed opinion of the person giving it and permission to use it has first been obtained.
quotation marks	7.26	Advertisers must not use quotation marks in a way which suggests a testimonial unless the source is identified.
declaration of interest	7.27	Testimonials given by a member's staff or by anyone connected with the member or with the product or service being advertised must not be used unless the interest of such an individual is explicitly declared.
recency of testimonials	7.28	Testimonials, including press reviews, must not be used if they are out of date or otherwise no longer applicable. It should be noted that a testimonial for products such as high technology items may date rapidly and that, if in doubt, a member should give the date of the testimonial or press review.
events	7.29	Presentations and Events Members offering a free gift to consumers in return for attendance at a presentation/special event must make it clear in all advertising material that the purpose of the presentation/special event is to sell a particular product or service. The exact nature of the free gift must be explained and details given of any restrictions on the receipt of such a gift. Members must not unfairly represent the chances of receiving a particular gift.
direct selling	7.30	Direct Selling Direct selling, for instance during a member's visit to a respondent, is not within the scope of this Code but any direct marketing used in connection with such a visit is covered.
intended visits	7.31	Members intending to visit a respondent must clearly state this intention in the original advertisement or follow-up mailing and must fairly represent the true purpose of the visit, providing a mechanism for the consumer to refuse such a visit at no cost to themselves.
network marketing	7.32	Network Marketing Members operating network marketing schemes must comply with Part XI of the Fair Trading Act 1973 and the Regulations made under it. Members must not operate any scheme in which payments or other benefits to any participant derive from the recruiting of participants rather than from sales.
responsibility for the network	7.33	Regardless of the legal arrangement between a member and their network participants, the member is responsible for ensuring that the participants comply with this Code. [See para 3.13.]
home shopping	7.34	Home Shopping Agents Members must give clear instructions to agents on how to operate their agency and must provide sufficient information to enable agents to explain the member's method of trading to customers. Members must make reasonable provision for the efficient handling of all communications with agents.
additional rules	7.35	Additional Special Rules Members should refer to Sections 9, 10 and 11 for detailed provisions on Telephone Marketing, Promotions with Prizes and Continuing Series and Collectibles.

8.0 CUSTOMER AND CLIENT SERVICE

procedures	8.1	Members must at all times aim to give prompt, efficient and courteous service to customers and must ensure that they have in place adequate administrative procedures to achieve this. Where a member uses a mailing house or other agent for fulfilment, the member has full responsibility for this and all other aspects of customer and client service.
order records monitoring complaints	8.2	Members must keep adequate records of the processing of orders received for goods or services and must maintain an adequate system of monitoring queries and complaints.
definition of complaints	8.3	Complaints A complaint is any expression of dissatisfaction by a consumer about a particular solicitation, transaction, product or service. It does not apply to general enquiries or comments regarding the member's business or products.
timing	8.4	Members must deal with complaints promptly and normally within 5 working days. If the complaint is complex or cannot reasonably be dealt with within 10 working days of receipt, then it should be acknowledged.
dealing with complaints	8.5	If a complaint is found to be justified, members should settle it quickly, effectively and courteously. If a complaint is not justified, this should be politely explained to the complainant. Where there is any uncertainty, the member should give the customer the benefit of the doubt.
information on the Authority	8.6	If the complainant is still not satisfied, the member should advise them of the services provided by the Authority [see Section 12].
hoax orders unsolicited goods	8.7	Hoax Orders Members must operate reasonable verification procedures to minimise irritation resulting from hoax orders. Members must not under any circumstances send goods or provide services for which payment is required to any addressee without first having received an instruction for the supply of them. [See para 6.22.]
substitution of products	8.8	Substitution of Products If a product offered becomes unavailable, a substitute may be supplied as long as it has the same or better characteristics, is supplied at the same or lower price and the possibility was set out clearly in the offer. [See paras 6.18 to 6.20.]
return of substitutes	8.9	Members must make clear to the customer at the time of delivery of a substituted item that it can be returned and that the member will bear the cost of return.
right of return unwanted goods	8.10	Right to Withdraw Consumers have the right to return unwanted, undamaged goods without penalty within seven working days of receipt. The only charge that can be made to the consumer exercising this right is the direct cost of returning the goods.

This right to withdraw does not apply where:

- a) the goods are personalised or made-to-measure, are liable to deteriorate or expire rapidly or by reason of their nature cannot be returned.
- b) the goods are audio or video recordings or computer software which were unsealed by the consumer.
- c) the goods are newspapers, periodicals or magazines
- d) the price of the goods or services depends on fluctuations in the financial market which cannot be controlled by the member
- e) the services constitute gaming or lotteries
- f) the customer is not a consumer [see para 2.5.]

unwanted services

Consumers have the right to cancel services within seven working days from the conclusion of the contract unless the performance of the service has begun.

If a member has not supplied the information required in para 6.12 at or before the time the goods are received or a contract for services is concluded then the right to withdraw runs for three months unless during that time the information is supplied, in which event the seven day period runs from that time.

refunds

8.11

Refunds Where customers have exercised their right of return (or their right to cancel services) under para 8.10 above members must refund all money paid in advance as soon as possible and at the latest within 30 days.

other refunds

8.12

Members must also offer to refund all money paid in advance by respondents if:

- a) they have not received their goods or services; alternatively members may, if asked, provide a replacement
- b) goods are returned because they are damaged when received, are faulty or are not as described, in which case the member must bear the cost of post and packing (including, when requested or identified by the respondent, the cost of returning the goods).
- c) an unconditional money-back guarantee is given and the goods are returned within a reasonable period
- d) goods that have been returned are not received by the members, provided consumers can produce proof of postage
- e) members are otherwise in breach of their statutory or contractual obligations.

debt collection

8.13

Payment and Collection Procedures Members' debt collection procedures must be reasonable. Before referring any debt for collection by a third party, members must first serve adequate notice of their intention to do so.

Members must satisfy themselves that any parties used for the collection of debt have reasonable procedures and methods.

9.0 TELEPHONE MARKETING

scope	9.1	<p>General Rules This Section applies to all members using the telephone for marketing, sales or service purposes to consumers, businesses and other organizations. It is based on guidelines originally drawn up in consultation with the Director General of Fair Trading.</p> <p>Members using the telephone for these purposes are reminded that they must comply with the Code as a whole, not just this section. In particular, members' attention is drawn to paras 4.4 to 4.14 which deal with data protection issues.</p>
legislation	9.2	Members must comply with all relevant legislation (see Appendix 2) but particular attention is drawn to the Charities Act 1992 Part II and the Financial Services Act 1986 and the Regulations made under them.
disclosure	9.3	Disclosure Members making sales, marketing or service calls must volunteer the name of the advertiser at the beginning of the call and must repeat this information on request at any time during the conversation.
address & number	9.4	The advertiser's name, address and telephone number must also appear in the telephone directory or be listed with Directory Enquiries under the name given during the call.
purpose of call	9.5	Members must clearly state at the beginning of the conversation the purpose of the call and must restrict the content of the call to matters directly relevant to this purpose.
details of bureau	9.6	When acting as a telephone marketer and making calls on behalf of another organization, members must disclose their own name, address and telephone number if requested at any time during the conversation.
referrals	9.7	If a person is telephoned as a result of a referral by a third party, they must be informed of this at the beginning of the call, told the identity of the third party and given an opportunity to ask for the call to be discontinued.
honesty	9.8	Honesty Members must not evade the truth and must take care not to mislead. Any questions must be answered honestly and to the best of available knowledge.
"sugging" & "dugging"	9.9	Sales, marketing or service calls must not be made under the guise of research or a survey. When collecting information for legitimate research or survey, members must not use this information to form the basis of a sales approach either during or after the call. [See paras 3.10 and 3.11.]
prizes	9.10	Members must not offer a prize if any payment for that "prize" is later requested.
responsibility for staff	9.11	Members must accept responsibility for statements made by their staff or others working on their behalf.

when to call	9.12	<p>Reasonable Hours Members must not make sales, marketing or service calls during hours which are unreasonable to the person called, recognising that what is regarded as reasonable can vary in different locations and in different types of households or businesses.</p> <p>In general, members should not make calls between the hours of 9pm and 8am, unless an express invitation to do so is received. Members should also be aware that many consumers might consider it unreasonable to be called on a Sunday or on national/religious holidays.</p>
offer to call back	9.13	Members initiating a sales or marketing call must ask the recipient if the call is convenient. If it is not, members should offer to telephone again at a more convenient time, or not at all if so required.
courtesy	9.14	Courtesy and Procedures Members must at all times be courteous and efficient during sales, marketing and service calls.
pressure tactics	9.15	Members must avoid the use of high pressure tactics which could be construed as harassment.
right to end call	9.16	Members must always recognise the right of the other party to end the telephone conversation at any stage, and must accept any request to end a call promptly and courteously.
arranging visits	9.17	If a member arranges to visit the recipient of a sales, marketing or service call, a telephone number or address must be provided in advance of the visit to enable the recipient to cancel or change the appointment.
confirmation of information given orally	9.18	<p>When a consumer places an order for goods or services following a telephone contact, the member advertising those goods or services must ensure that the consumer is sent a statement in writing (or in another appropriate, durable medium) which details the information previously given orally to the consumer. This statement must be given to the consumer no later than when they receive the goods or when the service commences. Where the supply of such goods or services is to a third party, later confirmation is acceptable. [See paras 6.11 and 6.12.]</p> <p>In addition such members must ensure that the consumer is sent any documentation required by legislation, eg. the Consumer Credit Act 1974 and the Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987.</p>
restriction of contacts & minors	9.19	Restriction of Contacts Members must take all reasonable steps not to make outbound marketing calls to minors.
random dialling	9.20	Sales, marketing and service calls must not be generated by random number or sequential number dialling, manually or by computer.
ex-directory	9.21	Members must not knowingly make calls to unlisted or ex-directory numbers unless the number has been provided by the consumer concerned.
calls at work	9.22	Members must not make consumer calls to individuals at their place of work unless the individual has given this number for that purpose.

TPS	9.23	Members using the telephone for marketing, sales or service purposes to consumers with whom they have no established commercial or charitable relationship, must use the Telephone Preference Service and abide by its rules.
"do not call" list	9.24	Members must block from their telephone contact lists those people who have specifically requested not to be contacted by telephone. They must keep a record of these names and telephone numbers and have documented procedures to ensure that all such names have been blocked from the telephone contact lists used on the members' behalf. [See para 4.13.]
automated messages	9.25	Members intending to initiate outbound sales and marketing calls involving the use of wholly automated messages must: <ol style="list-style-type: none"> a) have obtained the prior written permission of the person being called, and b) have available for inspection by OFTEL a record of those who have given such permission using an individual's telephone number as identification (see telecommunications Class Licence).
power & predictive diallers	9.26	Use of Power and Predictive Dialling Equipment For the purposes of this Code, a Power Dialler is an automated dialler which can store, access and automatically dial telephone numbers and a Predictive Dialler is an automated dialler which will adjust the rate at which it dials, and deliver answered calls automatically to match operator availability.
availability of live operator	9.27	If a "live" operator is unavailable to take the call generated by the Dialler, the equipment should abandon the call and release the line in not more than one second. If the number is redialled the same day, a "live" operator must be available before the call is made to avoid the call being dropped more than once.
rate of calls abandoned	9.28	The Dialler must at all times be adjusted to ensure that the rate of calls abandoned is no more than 5%.
	9.29	Members must maintain an up to date archive of abandoned call statistics and make that archive available for inspection on reasonable notice from the appropriate authorities.
taping & monitoring	9.30	Warning Tones and Silent Monitoring Equipment capable of recording, silent monitoring or intruding into live telephone calls should incorporate standard warning tones audible to both parties. (See Section 22 of the Telecommunications Act 1984.)
removal of tone	9.31	However, it is permissible to disable the standard warning tones as long as the warning tones are replaced by an alternative form of warning. This could be in the form of a written notice given before the call or a warning given during the call itself which clearly informs all parties to a call why it is being recorded or silently monitored. (See General Variation no NS/V/1235/T/100023 issued by the Director General of Telecommunications.)

statement of policy	9.32	Members are required to keep a record of the means used to warn callers that two-way conversations are to be recorded or silently monitored and to keep a statement on recording and monitoring policy.
premium rate services	9.33	Premium Rate Services Members using premium rate services must comply with the Code of Practice of the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS). Copies are available from the Association.
	9.34	Members must ensure that advertisements for and contents of premium rate services comply as appropriate with this Code and with the British Codes of Advertising and Sales Promotion.

10.0 PROMOTIONS WITH PRIZES

promotions with prizes	10.1	General Rules These general rules apply to all prize promotions including free draws, prize competitions and instant win offers.
advertising promotions	10.2	The advertising for any prize promotion is to be regarded as an offer and must therefore comply with all relevant provisions of Section 6 of this Code.
information to be included in advertisements	10.3	<p>In addition, advertisements for prize promotions must include information on:</p> <ul style="list-style-type: none"> a) the nature and quantity of prizes to be given away b) any closing date c) any restrictions on the number of entries or prizes d) any restrictions on who can enter e) any need to obtain permission to enter from an adult or employer f) any cash alternatives which will be available g) any requirements for proof of purchase h) how and when winners will be notified of results i) how and when winners and results will be announced or made available j) any intention to use winners in post-event publicity k) any conditions under which the entries may be disqualified l) whether the member intends to limit, or disclaim responsibility for entries that may be lost.
rules	10.4	Rules for entry must be prepared in advance of the publication of any advertisement for a prize promotion and be made available to entrants no later than the time at which they are expected to respond. Complex rules should be avoided.
closing date	10.5	The closing date for entry to a prize promotion should not be changed unless circumstances outside the reasonable control of members make it unavoidable. Poor response to a promotion or inferior entries will not be considered sufficient reason for extending a closing date unless this has been clearly stated in advance.
use of "win" & "prize"	10.6	In prize promotions in which all or most participants qualify to receive goods or services, words such as "prize" and "win", must not be used in a way likely to lead participants to believe they are entitled to something more valuable than they are in fact.

instant win	10.7	Participants in instant win promotions must be given their winnings at once or should know immediately what they have won and how to claim it without delay, unreasonable costs or administrative barriers.
availability of goods	10.8	If a promotion is widely advertised, members must ensure that entry forms and any goods needed to be purchased are readily available.
chances of success	10.9	Members must not unfairly represent the chances of winning a particular prize or raise unjustified expectation that any particular prize can be won.
list of winners	10.10	A full list of winners must be produced and be available, on request, to participants as soon as possible after the completion of the promotion.
eligibility	10.11	Persons in any way connected with the operation or administration of a promotion must not be eligible to participate.
award of prizes	10.12	All prizes must be awarded as advertised.
	10.13	Prizewinners must receive their prizes within six weeks of the end of the promotion unless otherwise stated in advance.
prize draws	10.14	Prize Draws A prize draw is a scheme in which prizes are allocated by chance . (See 10.20 for prize competitions, which involve an element of skill.) Any charge for entry, or any requirement to buy goods or services, may result in an illegal lottery, and members should always seek legal advice before launching such promotions.
restricted entry to prize draws	10.15	It is permissible under this Code to restrict entry to those respondents who accept certain conditions, as long as no payment or purchase is required as a condition of entry to a prize draw .
free entry route to prize draws	10.16	Any entry route which is free must be stated clearly and prominently so that no recipient would be in any doubt as to the route's availability.
chances of success in prize draws	10.17	If entry to a prize draw is open to all respondents, then the chances of success must be exactly the same for all.
acceptance of offers for prize draws	10.18	Advertisements for prize draws open to all respondents which invite orders for which payment is expected, must include a clear device for accepting or rejecting the offer and no one device is to be given undue prominence.
independent observer for prize draws	10.19	The important stages of a prize draw , such as the drawing of winning numbers, must be observed by an independent person. The results must likewise be certified when the prize draw has been completed.
prize competitions	10.20	Prize Competitions A prize competition is a scheme in which success depends to a substantial degree upon skill . (See 10.14 for prize draws where prizes are allocated by chance.)

- information to be given for prize competitions 10.21 Before entering a **prize competition**, participants must be informed :
- a) whether prizes will be limited only to entries of a sufficient standard
 - b) of the criteria for judging entries
 - c) whether and how entries will be returned by promoters.
- timing for prize competitions 10.22 Members must ensure that entrants to a **prize competition** are given adequate time in which to complete and submit their entries.
- independent judge for prize competitions 10.23 The selection of winning entries to a **prize competition** must be carried out by an independent judge or a panel of judges including one independent member. Such judge(s) must include someone with particular knowledge of any special field covered in the competition.

11.0 CONTINUING SERIES AND COLLECTIBLES

information to be given in offers	11.1	<p>Continuing Series When offering an open-ended commitment for a continuing series of goods or services members must:</p> <ul style="list-style-type: none"> a) make clear the intervals, or conditions of intervals, at which goods or services will be supplied b) make clear, either in the original advertisement or with the initial supply of goods sent on approval, the full terms of the contractual commitment into which a respondent is being asked to enter.
change of terms of offer	11.2	<p>Members must not change intervals of supply or quantity of goods unless:</p> <ul style="list-style-type: none"> a) they have made it clear in the terms of the offer that more than one item may be supplied at one time; or b) they have made it clear in the terms of the offer that they do not know whether more than one item will be supplied at one time and that they will do so if possible and on each occasion give the customer adequate time to reject these additional items; or c) they contact their customers before any goods are despatched to invite them to accept or reject such a change in the supply, but this is not permissible within three months of the initial offer.
changing payment terms	11.3	Members must not change the terms for frequency of payment and amount without the express agreement of the customer.
change in supply	11.4	Any invitation or notice of change in supply must be accompanied by a reply paid device.
cancellation	11.5	<p>Cancellation Members must:</p> <ul style="list-style-type: none"> a) accept cancellation at all times after any initial contractual commitment has been fulfilled even if they are unable to prevent the despatch of further goods; in such case the member must meet the cost of returning the goods b) accept cancellation at any time if the price of goods or services is increased more than the respondent could reasonably have expected when the commitment was undertaken c) refund any monies paid for goods or services not provided at the time of cancellation.
definition of collectibles	11.6	<p>Collectibles A collectible is a product advertised in terms of its interest as a collector's item, with emphasis being placed primarily on such factors as scarcity or aesthetic quality.</p>

advertising collectibles	11.7	<p>When advertising collectibles, members must not:</p> <ul style="list-style-type: none"> a) mislead respondents as to the scarcity or the current or likely future re-sale value of the item(s) on offer b) appear to justify an inflated price by suggesting limitations on quantities available c) trade upon any lack of knowledge among the general public as to the nature and extent of the market for items of the kind being advertised or about the criteria for assessment employed within the market.
limited numbers	11.8	<p>When advertising items where the value is perceived as attributable to limited numbers, members must ensure that the nature of the limitation is immediately evident from the description in the advertisement and depending on the nature of the limitation must either:</p> <ul style="list-style-type: none"> a) state the maximum number of articles to be produced, including, if appropriate, the worldwide total and/or b) make it clear that the limitation is on the number of persons applying within a given period and in such a case should offer to inform all interested purchasers of the number of articles eventually produced and/or c) give clear information about any period during which the offer is available and where the offer is to be made in more than one stage. Any final closing date must be clearly stated in the advertisement and prior to any information regarding other dates by which the initial orders are being limited.
scarcity	11.9	<p>When making claims as to the scarcity or rarity of items not produced directly by or for the member, substantiation must be available.</p>
precious metal	11.10	<p>Any advertisement which claims, directly or indirectly, that goods are of value by virtue of the amount of precious metal they contain should give an indication of the proportion of precious metal contained in them.</p>

12.0 COMPLAINTS AGAINST MEMBERS

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|--|------|--|
| how to complain | 12.1 | Making a Complaint Complaints against members should be set out in writing and addressed to the Association's Complaints Officer. A complaint may be from an individual or a company or it might be referred from a statutory, advisory, self-regulatory or enforcement body. |
| complaint handling | 12.2 | Complaint Handling Where a complaint against a member concerns a straight-forward customer service problem, the Complaints Officer will, except when the complainant can be answered without reference to the member, invite the member to attempt to settle the matter directly with the complainant. Members must respond to the Complaints Officer within ten working days, although this response may be in the form of a copy of any correspondence with the complainant which demonstrates that adequate steps have been taken to resolve the complaint. |
| referral to
Direct Marketing
Authority | 12.3 | A complaint will be referred to the Authority by the Complaints Officer wherever there is an apparent infringement of the Code, or where the complaint cannot be satisfactorily resolved by the Complaints Officer, or where either party to a complaint has specifically requested that it should be referred to the Authority. |
| | 12.4 | Where a complaint is to be referred to the Authority, the Secretariat will inform the member and invite further comments. Members must respond within ten working days. The Secretariat will then submit a report to the Authority including any material that either party has specifically requested be brought to the Authority's attention. The Authority will then consider the complaint, requiring further information where necessary. |
| complaints
officer | 12.5 | The Complaints Officer is appointed by the Chief Executive of the Association. |
| Direct
Marketing
Authority | 12.6 | The Direct Marketing Authority The Association has established the Direct Marketing Authority which, as one of its main functions, independently adjudicates or conciliates where necessary on complaints against members under the provisions of the Code. |
| | 12.7 | The Authority operates independently of the Board, and its adjudications under the Code are final. |
| composition of
Authority | 12.8 | <p>Composition of the Authority The Authority will comprise:</p> <ul style="list-style-type: none"> a) <i>The Chairperson</i> An individual from outside the industry, appointed by the Board after consultation with Royal Mail and such other authorities as the Board shall consider appropriate. The Chairperson is appointed for a three year term, renewable for one further period of three years. b) <i>The Independent Members</i> A minimum of two additional individuals appointed by the Board after consultation with the Chairperson, Royal Mail and such other authorities as the Board shall consider appropriate. They are appointed for a three year term, renewable for a further period of three years. |

c) *Industry Members* A minimum of three industry members appointed to the Authority in their individual capacities by the Board. They are appointed for a two year term, renewable for a further period of two years.

There will never be more industry members appointed to the Authority than independent members, including the Chairperson, and in all deliberations of the Authority, the Chairperson shall also have the casting vote.

role of Authority	12.9	The Role of the Authority The Authority considers all unresolved consumer complaints against DMA members. It will seek to conciliate on such complaints and, when appropriate it will adjudicate upon them within the provisions of the Code.
conciliation	12.10	The Authority also conciliates, or where appropriate adjudicates within the provisions of the Code, in disputes between members or between a member and another company, whether the dispute is of a contractual or other nature.
complaints against non-members	12.11	On referral from the Chief Executive of the Association, the Authority may assess complaints against non-members who have applied for membership of the Association. It will report its views on the complaint to the Chief Executive.
annual report	12.12	The Authority monitors compliance with the Code and makes an Annual Report to the Director General of Fair Trading on the operation and effectiveness of the Code. This is compiled using casework and the answers to a questionnaire circulated to members. The Report is made publicly available. [See para 3.3.]
visits	12.13	The Authority may make visits to members to review procedures and to discuss current issues and may raise matters pertaining to the Code with a member, whether or not a complaint has been received from a third party.
disciplinary action	12.14	Powers of the Authority Where the Authority finds a member to be in breach of the Code, it may take one or more of the following steps: <ul style="list-style-type: none"> a) seek an undertaking from the member that it will not be repeated and, if appropriate, agree alternative procedures with the member; b) issue a formal written admonition to the member which would normally be made public. The member will be given an opportunity to see such a statement and to comment before publication; c) suspend or, if the circumstances warrant, terminate membership of the Association, informing the Association that such action is being taken.
no breach	12.15	Whether or not the Authority concludes that there has been an infringement of the Code, it may nevertheless: <ul style="list-style-type: none"> a) decide to advise the member on possible changes to their procedures and/or b) agree to conciliate on behalf of the two parties.

complainant not satisfied	12.16	Where the Authority is not able to effect a conciliation the Authority will advise the parties that it can do nothing further and may suggest that the parties take legal advice or consider using the services of the Chartered Institute of Arbitrators or the Centre for Dispute Resolution.
comments on the Code	12.17	The Authority may comment on and/or make recommendations to the Board on particular aspects of the Code.
public statements	12.18	The Authority may comment publicly on trading practices if it appears likely that such practices, whether or not those of a member of the DMA, may breach the principles of the Code thereby bringing the industry into disrepute.
appeals procedure	12.19	Appeals Procedure Where the Authority considers a complaint under the provisions of the Code and concludes that the member is in breach of the Code the member is entitled to appeal against that ruling, and/or against any sanctions imposed by the Authority, to the Appeals Commissioner. Where the Authority has imposed sanctions under 12.14 b) or c) these will not be applied until all appeals mechanisms, including that set out in para 12.21, have been exhausted.
Appeals Commissioner	12.20	The Appeals Commissioner is appointed by the Board after appropriate consultation.
suspension & expulsion	12.21	Suspension and Expulsion Where the Authority has suspended or terminated membership, and the member has exhausted all other appeals mechanisms, the member may appeal to the Board against such suspension or expulsion, but not against the ruling itself. If the appeal is unsuccessful, the term of suspension or expulsion will run from the date the appeal is decided.
	12.22	Whilst under suspension the member must take immediate steps to cease using the Association's symbol and must not imply in any way that it is a member of the Association.
	12.23	When a member is suspended or expelled, the Authority and the Board will notify the appropriate industry bodies and may issue a public statement, giving reasons for the suspension or expulsion.
meetings	12.24	Meetings of the Authority Authority members will not be eligible to vote if they are in any way connected with, or a direct competitor of, the company or organisation being adjudicated upon or are in anyway related to or connected with a consumer complainant. Industry members will not be present during an adjudication involving their own company unless they are invited to remain.

APPENDIX 1

use of symbol	13.0	THE SYMBOL - A GUIDE FOR MEMBERS
		This section is for guidance only and it is permissible for members to vary their use of the symbol.
colour	13.1	The official colour of the symbol is black. It should not be reversed out or rendered in outline and the background should be unprinted or a pale, solid colour.
size	13.2	The minimum diameter of the symbol should be no less than 12mm. The symbol should be separated from other graphic devices by at least half its diameter and when used on members' stationery should be at least that distance from the edge of the paper.
wording	13.3	When members are using the symbol smaller than 22mm in diameter, the Direct Marketing Association wording should be deleted.
artwork	13.4	The symbol should be reproduced in line, using approved artwork provided by the Association.
coupons	13.5	Members should not use the symbol within a response coupon or next to credit card or other payment symbols.
text	13.6	Members are encouraged to use the symbol in combination with text to clarify or explain membership, although the Association reserves the right to object to any wording thought to be inappropriate. [See para 3.16.]

APPENDIX 2**14.0 PRINCIPAL LEGISLATION AFFECTING DIRECT MARKETING**

Charities Act 1992
Consumer Credit Act 1974
Consumer Protection Act 1987 and Code of Practice for Traders on Price Indications 1989
Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987
Consumer Transactions (Restrictions on Statements) Order 1976
Control of Misleading Advertising Regulations 1988
Copyright, Designs and Patents Act 1988
Data Protection Act 1984
Fair Trading Act 1973
Financial Services Act 1986
Mail Order Transactions (Information) Order 1976
Offensive Weapons Act 1996
Price Marking Order 1991
Sale of Goods Act 1979
Sale and Supply of Goods Act 1994
Supply of Goods and Services Act 1982
The Theft Act 1968
The Theft Act 1978
The Trademarks Act 1994
Trade Descriptions Act 1968
Trade Descriptions (Place of Production) (Marking) Order 1988
Unfair Contract Terms Act 1977
Unfair Terms in Consumer Contracts Regulations 1994
Unsolicited Goods and Services Act 1971 and 1975

APPENDIX 3

15.0 DMA RULES ON TOBACCO DIRECT MARKETING

scope of rules	15.1	Introduction These Rules cover the direct marketing of tobacco products. They apply to members' offers and direct mail offers or promotions, including any sales promotion activity by mail for cigarettes, cigars, hand rolling and pipe tobacco. They must be applied in addition to:
voluntary agreement		a) the Cigarette Promotion Code (Appendix 3 of the Voluntary Agreement on Tobacco Products' Advertising and Promotion dated 21 December 1994) for direct mail promotions.
BCASP		b) The Cigarette Code (which forms part of the British Codes of Advertising and Sales Promotion) for the advertising of such promotions.
		In addition, the general requirements of the British Codes of Advertising and Sales Promotion apply to all non-broadcast advertising and promotional activity.
		These Rules do not apply to offers made to traders, to communications to shareholders, nor to material devoted primarily to publicising sponsored events.
spirit & letter		The Rules must be complied with in the spirit as well as the letter.
known smokers	15.2	General Rules Members must ensure that offers relating to tobacco products are directed only to known smokers over eighteen years of age and must take all reasonable steps to ensure the removal of anyone under eighteen years of age from their contact lists.
minors	15.3	Members must take all reasonable care to ensure that no offer appeals particularly to those young people under eighteen year's of age more than to the public at large.
offers	15.4	Members' Offers Members' offers must contain a statement to the effect that the offer is restricted to smokers aged eighteen or over.
signed statement	15.5	Members must require respondents to an offer to sign a statement that they are smokers aged eighteen or over. If the telephone is being used, then the respondent must be required to either orally or electronically to confirm that they are a smoker aged 18 or over.
envelopes	15.6	Envelopes used to mail offers or any promotional material must carry the words "Only for Adult Smokers" in a prominent position.
unaddressed offers	15.7	Members must not mail or deliver unaddressed or anonymously addressed promotional offers.
	15.8	Members must restrict any mailing to <u>named</u> individuals aged eighteen or over who have previously confirmed their status as adult smokers.

health warnings	15.9	Members must include on all direct mail offers and promotions an appropriate health warning, attribution of the health warning and the tar and nicotine yields of the cigarette brand being promoted. This must appear once in all leaflets, brochures, consumer catalogues and circular letters with a promotional content for a cigarette brand or brands.
samples	15.10	Samples Members' offers appearing in the press or periodicals for cigarettes and hand-rolling tobacco must not invite consumers to send for free samples, although they may invite consumers aged eighteen or over to make a signed application for a "voucher" to be exchanged for tobacco products at a retail outlet.
	15.11	Free samples must not be mailed unless: <ul style="list-style-type: none"> a) the products are sent in response to a complaint from a consumer, or b) they are sent in response to a signed application which indicates that the applicant is a smoker aged eighteen or over, and which is accompanied by reasonable evidence (eg. pack fronts) that he or she has recently purchased tobacco products, or c) the recipient has previously requested such a sample from a company representative who considered that he or she was over 18 and who also obtained a signed application which indicated that he or she was an adult smoker.
mailing lists	15.12	Mailing Lists Members can collect names and addresses of adult smokers from face-to-face interviews, but for organised events only where adults represent the majority of those present.
PAF/MPS	15.13	All addresses held on mailing files must be checked against the Royal Mail 'Postal Address File' (PAF) and the Mailing Preference Service (MPS) consumer file.
electoral roll	15.14	Members must not mail any name and address unless the names held on their mailing files have been first checked against the Electoral Roll or as soon as the available Electoral Roll post-dates the date of supply of the data to confirm their adult status and continued occupation of the address.
"gone-aways"	15.15	Members must regularly update their list with corrections (including known "goneaways", the names of recently deceased persons and anyone requesting removal from the list).
opt out	15.16	Every tobacco related mailing must give recipients the opportunity to opt out of receiving any future mailings.

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