

Information Commissioner's Office

# Consultation:

## Direct Marketing Code

Start date: 8 January 2020

End date: 4 March 2020

# Introduction

The Information Commissioner is producing a direct marketing code of practice, as required by the Data Protection Act 2018. A draft of the code is now out for public consultation.

The draft code of practice aims to provide practical guidance and promote good practice in regard to processing for direct marketing purposes in compliance with data protection and e-privacy rules. The draft code takes a life-cycle approach to direct marketing. It starts with a section looking at the definition of direct marketing to help you decide if the code applies to you, before moving on to cover areas such as planning your marketing, collecting data, delivering your marketing messages and individuals rights.

The public consultation on the draft code will remain open until **4 March 2020**. The Information Commissioner welcomes feedback on the specific questions set out below.

You can email your response to [directmarketingcode@ico.org.uk](mailto:directmarketingcode@ico.org.uk)

Or print and post to:

Direct Marketing Code Consultation Team  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF

If you would like further information on the consultation, please email the [Direct Marketing Code team](#).

## Privacy statement

For this consultation we will publish all responses received from organisations except for those where the response indicates that they are an individual acting in a private capacity (eg a member of the public). All responses from organisations and individuals acting in a professional capacity (eg sole traders, academics etc) will be published but any personal data will be removed before publication (including email addresses and telephone numbers).

For more information about what we do with personal data please see our [privacy notice](#)

Q1 Is the draft code clear and easy to understand?

Yes

No

If no please explain why and how we could improve this:

Terminology is sometimes not what we use within our organisation. We operate a data co-operative, how we operate often falls between the cracks and isn't addressed specifically. For example, the use of 'cold data' or even 'prospect data' is not directly addressed.

Q2 Does the draft code contain the right level of detail? (When answering please remember that the code does not seek to duplicate all our existing data protection and e-privacy guidance)

Yes

No

If no please explain what changes or improvements you would like to see?

Mostly, although see point above.

Q3 Does the draft code cover the right issues about direct marketing?

Yes

No

If no please outline what additional areas you would like to see covered:

See Q1. Broadly it does, although some important specifics are not covered when it comes to postal data co-operatives, cold data etc for example. 3<sup>rd</sup> party data is mentioned but the context of this is not necessarily the same as cold/prospect data, i.e. where appending is concerned.

Q4 Does the draft code address the areas of data protection and e-privacy that are having an impact on your organisation's direct marketing practices?

Yes

No

If no please outline what additional areas you would like to see covered

Q5 Is it easy to find information in the draft code?

Yes

No

If no, please provide your suggestions on how the structure could be improved:

Q6 Do you have any examples of direct marketing in practice, good or bad, that you think it would be useful to include in the code

Yes

No

If yes, please provide your direct marketing examples :

It seems profiling is viewed as somehow harmful to the consumer, when it is in fact the opposite in the real world, enabling more targeted marketing. Very few people object to receiving a marketing piece/catalogue in the post, which is validation that it isn't an intrusive activity. Those who do object are generally 'of a type' and do not understand, nor make any attempt to understand the innocuous process that has led to them being targeted. On occasions, some who do object are placated when it is explained to them. i.e. they bought from a home accessories catalogue recently, and as a result they have been highlighted as a prospect of another, similar home accessories business. The way our modelling/profiling works currently means it is not a surprise when someone receives direct mail from a prospecting brand.

As per previous answers. This new code seems like a reversal of Recital 47, which would be disastrous for the industry. This was introduced to allow the engine room of the economy to thrive and grow unhindered by unbalanced (pandering to the paranoid consumer) regulation.

Will small businesses be able to buy cold data and mail very targeted prospects, i.e. active sector buyers?

Consent will not work where prospecting is concerned, only at sector level, and therefore cannot be specific as the code implies will be the case. No prospecting has implications for small business growth.

Q7 Do you have any other suggestions for the direct marketing code?

Adhere to Recital 47 regarding Legitimate Interests. Relying on consent across the board will wipe our 3<sup>rd</sup> party marketing and seriously damage the capability of small businesses to recruit valuable new customers.

The government needs to educate the public on who can do what with what kinds of data in simple terms. People may be suspicious for no good reason, and in our experience totally misunderstand how someone 'gets' their data. Marketers are doing a good job of presenting privacy policy/opt-in/opt-out information but the buyers/public do not pay proper attention. Some get very irate and do not understand it is their responsibility to opt-out of postal communications, which they can do at any time.

# About you

Q8 Are you answering as:

- An individual acting in a private capacity (eg someone providing their views as a member of the public)
- An individual acting in a professional capacity
- On behalf of an organisation
- Other

Please specify the name of your organisation:

Conexance

If other please specify:

Q9 How did you find out about this survey?

- ICO Twitter account
- ICO Facebook account
- ICO LinkedIn account
- ICO website
- ICO newsletter
- ICO staff member
- Colleague
- Personal/work Twitter account
- Personal/work Facebook account
- Personal/work LinkedIn account
- Other

If other please specify:

Via DMA

Thank you for taking the time to complete the survey