

CANADIAN  
MARKETING  
ASSOCIATION

**CMA**



# Canadian Marketing Code of Ethics and Standards

## Table of Contents

<b>A   The Canadian Marketing Association</b> .....	<b>5</b>
About the CMA	
<b>B   Purpose of Canadian Marketing Code of Ethics &amp; Standards</b> .....	<b>5</b>
<b>C   Definition of Marketing</b> .....	<b>5</b>
<b>D   Application</b> .....	<b>6</b>
D1   Intent of the Code	
D2   Consumer Marketing	
D3   Business-to-Business Marketing	
D4   Not-for-Profit Organizations	
D5   Organizations Marketing Internationally	
D6   Other Codes and Regulations	
<b>E   Responsibility for Marketing Communications</b> .....	<b>7</b>
<b>F   “Must” Vs. “Should”</b> .....	<b>7</b>
<b>G   Demonstration of Commitment</b> .....	<b>7</b>
G1   Annual Confirmation	
G2   Supporting the Code	
<b>H   Overarching Ethical Principles</b> .....	<b>8</b>
H1   Personal Information Practices	
H2   Truthfulness	
H3   Standards of Practice	
H4   Professionalism	
<b>I   Universal Marketing Practices</b> .....	<b>9</b>
I1   Accuracy of Representation	
I2   Clarity	
I3   Disclaimers	
I4   Support for Claims	
I5   Disguise	
I6   Testimonials	
I7   Timelines	
I8   Availability	
I9   Price Claims	
I10   Use of the word “Free”	
I11   Currency	
I12   Comparative Advertising	
I13   Disparagement	

I14   Disclosures	
I15   Fulfilment Practices	
I16   Automatically Billed Products or Services	
I17   Unordered Products and Services	
I18   Complaints	
I19   Accessibility	
<b>J   Protection of Personal Privacy</b> .....	<b>15</b>
J1   Ten Privacy Principles:	
J2   Privacy and Business-to-Business	
J3   Use of CMA Do Not Mail Service	
J4   Opt-Out Opportunity	
J5   Privacy Notice to Consumers	
J6   List Rental Practices	
<b>K   Special Considerations in Communicating with Children and Teenagers</b> .....	<b>18</b>
K1   Age and Application	
K2   Transparency and Age-appropriate Language	
K3   Detrimental Use of Data	
K4   Responsibility	
K5   Trust	
K6   Consent	
K7   Data Collection and Sharing	
K8   Contests Directed to Children	
K9   Commercial Transactions	
K10   Special Considerations in Communicating with Teenagers	
<b>L   Sub-Disciplines and Specific Marketing Practices</b> .....	<b>22</b>
L1   Direct Marketing and Catalogue	
L2   Sales Promotion	
L3   Public Relations	
L4   Research	
L5   Direct Mail	
L6   Out-of-Home/Outdoor Advertising	
<b>M   Media-Specific Standards of Practice</b> .....	<b>26</b>
M1   Broadcast, Including Direct Response Television and Infomercials	
M2   Magazines, Newspapers and Trade Press	
M3   Telephone and Fax	
M4   Mobile and Web	

<b>N   Responsibilities of Service Providers Including Agencies and Call Centres . . . . .</b>	<b>31</b>
N1   Confidentiality	
N2   List Transfer	
N3   Screening for Approval	
N4   Use of CMA Do Not Mail Service	
N5   Conflict of Interest	
N6   Disparagement	
N7   Misrepresentation	
N8   Authorship	
N9   Responsibility	
<b>O   Agency Search Principles. . . . .</b>	<b>33</b>
O1   Information in a Request for Proposal (RFP)	
O2   Requirements of an RFP	
O3   Communication During the RFP Process	
O4   Result Notification	
<b>P   Environmental Citizenship . . . . .</b>	<b>34</b>
P1   Environmental Representations	
P2   Environmental Footprint	
<b>Q   Adoption and Enforcement. . . . .</b>	<b>34</b>
<b>Glossary of Terms . . . . .</b>	<b>35</b>

## A | The Canadian Marketing Association

### About the CMA

The CMA is the voice of marketing in Canada. Our purpose is to champion marketing's powerful impact. We are the catalyst to help Canada's marketers thrive today, while building the marketing mindset and environment of tomorrow. We represent virtually all of Canada's major business sectors, and all marketing disciplines, channels and technologies.

We provide opportunities for our members from coast to coast to develop professionally, to contribute to marketing thought leadership, to build strong networks, and to strengthen the regulatory climate for business success. Our Chartered Marketer (CM) designation signifies that recipients are highly qualified and up to date with best practices, as reflected in the Canadian Marketing Code of Ethics & Standards. Our continuing professional development opportunities, along with our compliance and best practices guides and this Code, help marketers keep current and maintain high standards of professional conduct. Our Consumer Centre helps Canadians better understand their rights and obligations.

## B | Purpose of Canadian Marketing Code of Ethics & Standards

The Canadian Marketing Code of Ethics & Standards establishes and promotes high standards for the conduct of marketing in Canada.

Marketing professionals contribute significantly to the economy as key participants in business decision-making that results in:

- the sale of goods and services;
- investments in media and development of new marketing technologies; and
- the provision of significant employment opportunities for Canadians.

Marketers recognize the importance of maintaining high standards of conduct to ensure that these economic benefits can be realized, to earn and maintain consumer confidence, and to honour and strengthen the profession in Canada.

Members of the Canadian Marketing Association recognize their obligation – to the consumers and businesses they serve – maintain the highest standards of honesty, truth, accuracy, fairness and professionalism.

## C | Definition of Marketing

Marketing is a set of business practices designed to plan for and present an organization's products or services in ways that build effective customer relationships.

## D | Application

### D1 | Intent of the Code

This Canadian Marketing Code of Ethics & Standards applies to CMA member organizations regardless of business sector or marketing discipline/category. It codifies the principles and best practices that our members consider essential to the conduct of professional marketing and marketing communications activities in Canada. This Code does not purport to replace legal advice or provide legal guidance. Marketers must comply with all relevant federal, provincial, territorial and municipal laws.

### D2 | Consumer Marketing

This Code applies in its entirety to consumer marketing.

### D3 | Business-to-Business Marketing

This Code generally applies to business-to-business marketing, with specific exemptions for those practices identified as exclusively relating to consumer marketing.

### D4 | Not-for-Profit Organizations

This Code applies in its entirety to marketing activities conducted by charitable or not-for-profit organizations. The terms “consumers” or “businesses” referenced throughout this Code should be regarded as interchangeable with the more common not-for-profit sector descriptors for donors or supporters.

### D5 | Organizations Marketing Internationally

Organizations selling abroad are governed by this Code unless doing so contravenes the laws of foreign jurisdictions.

### D6 | Other Codes and Regulations

The Canadian Marketing Code of Ethics & Standards is intended to stand alongside the codes and standards of other Canadian marketing, advertising and sector-specific organizations. Marketers should inform themselves about relevant marketing practices that relate to pharmaceuticals, alcoholic beverages, cannabis, gambling, personal products, cosmetics, food, nutrition, labeling, tobacco, financial services, gender portrayal, broadcast advertising and advertising to children. Marketers are also encouraged to review those guidelines referenced throughout the Canadian Marketing Code of Ethics & Standards and on [our website](#).

## E | Responsibility for Marketing Communications

Marketers are responsible for the content of their marketing communications and the practices of their suppliers and advertising agencies when executing marketing communications on their behalf. This responsibility extends to suppliers that are not CMA members.

For responsibilities of service providers, please refer to [Section N](#) of this Code.

## F | “Must” Vs. “Should”

Throughout this Code, use of the word “must” indicates that a clause is compulsory for marketers. Use of the word “should” indicates that the clause is not compulsory but strongly encouraged as a best practice.

## G | Demonstration of Commitment

### G1 | Annual Confirmation

CMA members must confirm their compliance with this CMA Canadian Marketing Code of Ethics & Standards annually. Each member organization has a designated Voting Corporate Member who must sign the compliance clause on their membership application and annual renewal:

“With payment, my organization agrees to the following: 1) to comply with the CMA Canadian Marketing Code of Ethics & Standards and to review and familiarize itself with any updates that have taken place over the past year, and 2) for the purposes of marketing to consumers, to participate in [CMA’s Do Not Mail Service](#)”.

### G2 | Supporting the Code

To demonstrate support for this Code and to actively promote widespread awareness of its principles, ethical practices and obligations, member organizations should:

- ensure that employees engaged in the marketing process are familiar with its content;
- prominently display their CMA membership plaque in their place of business; and
- include the Association logo in their marketing communications and on their websites.

## H | Overarching Ethical Principles

### H1 | Personal Information Practices

Marketers must follow and promote responsible and transparent personal information management practices consistent with federal and provincial legislation and the 10 privacy principles in [Section J](#).

### H2 | Truthfulness

Marketing communications must not omit material facts and must be clear, easy to understand and truthful. Marketers must not make a representation that is false or misleading in a material respect.

### H3 | Standards of Practice

**H3.1** | Marketers must not participate in any campaign involving the disparagement or exploitation of any person or group on the grounds of race, colour, ethnicity, religion, national origin, gender, sexual orientation, marital status or age.

**H3.2** | Marketers must not participate in the dissemination of unsolicited material that is sexually explicit, vulgar or indecent in nature, except where required to do so by law, such as a common carrier.

**H3.3** | Marketers must not participate in the dissemination of any material that unduly, gratuitously and without merit exploits sex, horror, mutilation, torture, cruelty, violence or hate, except where required to do so by law, such as a common carrier.

**H3.4** | Marketers must not knowingly exploit the credulity, lack of knowledge or inexperience of any consumer, taking particular care to consider the capabilities of children, teenagers, people with disabilities, the elderly, newcomers and those who have limited ability to communicate in English or French.

### H4 | Professionalism

Guided by the Canadian Marketing Code of Ethics & Standards, all marketers must conduct themselves professionally and promote equality and not condone, tolerate or otherwise allow harassment, sexual misconduct, discrimination, bullying, violence, threats, intolerance of differences or any abuse of power or position in any workplace or working relationship. For clarity, these compulsory requirements apply to subordinate and superior relationships as well as colleagues and suppliers. It is expected that all CMA members uphold these values and act with integrity and professionalism at all times treating clients, suppliers, co-workers and the public with dignity and respect.

For more information (see [Best Practices to Prevent and Address Harassment](#)).



## I | Universal Marketing Practices

These practices apply regardless of industry sector, sub-discipline or marketing medium/channel employed.

### I1 | Accuracy of Representation

- I1.1** | Marketers must not materially misrepresent a product, service, marketing program or make any other representation that is misleading in a material respect, even if not directly related to the product or service, and must not materially mislead by statement or manner of demonstration.
- I1.2** | Photography, artwork, type size, colour, contrast, style, placement, verbal description and audio-visual portrayal must accurately and fairly describe the product or service offered.
- I1.3** | Marketers must recognize the importance of the general impression of the marketing communication and must ensure that it can be readily understood upon first exposure and, does not deceive by omission or commission.
- I1.4** | Marketers should not use deceptive design patterns (which are misleading interface techniques) to mislead consumers.

### I2 | Clarity

Marketing communications must be simple and easy to understand.

### I3 | Disclaimers

Disclaimers in any medium must be clear and prominent, easily accessible, with a reasonable expectation to be both read and understood by the average consumer, and be in close proximity to the representations to which they relate.

Disclaimers may be used to clarify, expand upon or explain the basis of a claim.

Disclaimers should not be used to contradict the general impression created by the main body of the advertisement or the plain meaning of the disclaimed words.

Marketers must ensure that disclaimers in digital media are prominently displayed or readily accessible at all times, including when messages are shared to other platforms or devices.

### I4 | Support for Claims

Test or survey data referred to in any marketing communication must be established prior to the claim being made, and must be reliable, valid and current and must support the specific claim, as it is likely to be perceived. Marketers must be able to prove the basis for any performance, efficacy or length of life claim or comparison and must not imply a scientific, factual or statistical basis where none exists.

## 15 | Disguise

- 15.1** | Marketers should identify themselves and must not engage in marketing communications in the guise of one purpose when the intent is a different purpose.
- 15.2** | Marketers must not claim to be carrying out a survey or research when their real purpose is to sell a product or service, to promote a business interest or to raise funds.
- 15.3** | Marketers must not mislead or deceive consumers or businesses into believing that a marketing communication is news, information, public service or entertainment programming, or an independent consumer review, when its purpose is to sell products or services, to promote business interests or to seek donations to causes or charities.
- 15.4** | Marketers should disclose to consumers and businesses all relevant aspects of their relationship regarding agents engaging in word of mouth marketing activities, including those appearing to act independently and without compensation, such as online consumer reviews. For guidance, marketers should consult the Competition Bureau’s guidelines regarding [testimonials](#), Ad Standard’s [Influencer’s Marketing Disclosure Guidelines](#) and Ad Standard’s [Testimonial, Endorsements, Reviews Guideline](#).
- 15.5** | Marketers must not publish misleading or false advertising representations in online and other product reviews that masquerade as the authentic experience and opinions of consumers (sometimes referred to as “astroturfing”).
- 15.6** | Marketing communications that appear to be genuine invoices or government documents must not be used.

## 16 | Testimonials

Testimonials, endorsements and product reviews published by a marketer must be:

1. authorized with appropriate permissions by the person or organization quoted;
2. genuine and related to the experience of the person or organization quoted, both at the time made and at the time of the marketing communication;
3. positioned as opinion, not fact, unless supported by valid research;
4. not taken out of context so as to distort the opinion or experience of the person or organization quoted; and
5. careful not to imply the existence of an affiliation between the marketer and the person or organization quoted when none exists.

Marketers must not publish product testimonials by a third party if the third party has a material connection (financial, employment or otherwise) with the marketer unless a disclosure of this connection is made within the testimonial or the related advertising message.

Marketers and influencers must disclose clearly in each post relating to a product any material connection between the marketer and the influencer (such as free product, monetary payments, discounts or other business or family connections) that have the potential to affect how consumers evaluate the influencer's independence. Marketers and influencers must ensure that the influencer's followers know that a reference to a product is a marketing representation.

For more information members should consult the Competition Bureau's guidelines regarding [testimonials](#) and Ad Standard's [Influencer's Marketing Disclosure Guidelines](#).

## 17 | Timelines

Descriptions and promises must reflect actual conditions, situations and circumstances, including relevant promotion dates and any restrictions, existing at the time of the promotion.

## 18 | Availability

Unless the promotional material appropriately advises the consumer or business of limited stock, marketers must ensure that quantities are sufficient to meet reasonably foreseeable demand. In cases where there is limited stock, and marketers do not supply sufficient notice of it, rain-cheques should be made available to consumers.

## 19 | Price Claims

**19.1** | Terms such as "regular price", "suggested retail value", "manufacturer's list price", and "fair market value", must represent prices at which a substantial volume of the item has been sold in the relevant marketplace for a reasonable period of time before or after the representation was made, or prices at which the item has been sold in good faith for a substantial period of time recently before or immediately after the representation was made. As such, sales should not continue for an extended period of time.

Marketers should be aware of the difference in legislative requirements for making price claims against one's own "ordinary selling price" and claims against the market more generally.

For guidance in satisfying these requirements, marketers should reference the Competition Bureau's Enforcement Guidelines on [Ordinary Price Claims](#).

**19.2** | Where price discounts are offered, qualifiers such as "up to", and "xx off" must be presented in easily readable form, and in proximity to the prices quoted. Reasonable quantities of items or services on promotion should be available at discount levels across and up to the range quoted.

**19.3** | Marketers must not advertise prices and discounts for products that are not attainable on account of additional mandatory fees that were not adequately disclosed. Marketers must also not attribute additional fees to government agencies when that is not the case.

## **I10 | Use of the word “Free”**

**I10.1** | Products or services offered without cost or obligation on the part of the consumer or business may be described as “free”, or similar.

**I10.2** | “Free” may also be used to describe a premium or incentive to purchase products or services, if: any cost or obligation is clearly and prominently identified in close proximity to the word “free”; or the price of the original product has not been specifically inflated to cover the cost of the premium.

## **I11 | Currency**

Prices quoted in Canada must be in Canadian dollars, unless otherwise clearly stated (see [CMA's Use of Currency in Marketing Guide](#)).

## **I12 | Comparative Advertising**

Comparisons included in marketing communications must be factual, verifiable and not misleading. They must compare similar aspects of the products or services being assessed.

Marketing communications should not stress insignificant differences designed to lead the consumer or business to draw a false conclusion. Marketers are cautioned against the use of hyperbole. (See also Ad Standards Guidelines for the [Use of Comparative Advertising](#)).

Marketers must also be aware of the intellectual property considerations that may arise in comparative advertising.

## **I13 | Disparagement**

Marketers must not use inaccurate information to attack, degrade, discredit or damage the reputation of competitor’s products, services, advertisements or organizations.

## I14 | Disclosures

- I14.1** | Prior to a buying, streaming or downloading activity by a customer, marketing offers must provide all the information necessary to make an informed decision to commit and/or engage. Marketers must take reasonable steps to ensure that the agreement to enter a contract is fully informed and intentional. Specific disclosure and agreement documentation requirements under provincial consumer protection legislation must be complied with. Precise disclosures will depend on the marketed product or service and on the sales channel, taking into account legislative requirements, including but not necessarily limited to the:
- exact nature of what is being offered;
  - price, including all additional charges such as delivery costs and handling costs or that data charges may apply (if applicable);
  - terms of payment, including late payment penalties;
  - customer’s commitment and any ongoing obligation in placing an order;
  - time(s) and place(s) of delivery or performance;
  - delivery arrangements including shipping terms;
  - return and cancellation policies and procedures;
  - substitution policies;
  - guarantees and warranties; and
  - marketer contact information.
- I14.2** | For business-to-business transactions, all information necessary for a reasonable business to make an informed purchase decision, including the disclosures described in I14.1, must be presented at the time of the original offer and agreement. In the case of an ongoing relationship, the information must be presented again only when there is a material change.
- I14.3** | All material changes, including amendments, renewals and extensions, to an agreement require consent and must comply with legislative requirements. Such new consent should be explicit and preferably in writing. Consent may not be inferred from the customer’s behaviour, including payment for the goods or services.
- I14.4** | Disclosures of offers must be clear, comprehensive and prominent. They must present all items material to a decision and be available in a form which permits the customer access to the information.
- I14.5** | Full and fair disclosure must be made of the terms of the offer including not just wording, but the manner of presentation of the price, including additional charges, terms and conditions, customer commitments and obligations. Information that, by the use of photography, artwork, type size, colour, contrast, placement, verbal description, audio-visual portrayal or other means, materially distorts the clarity of the offer or exceptions to it must not be used.

## I15 | Fulfilment Practices

Specific requirements concerning shipment timing, delays, back-orders, substitutions, cancellation provisions, complaint handling, refund practices and written confirmations are dependent on the nature of the agreement as defined in relevant consumer protection and other laws.

In addition to legal compliance, marketers must provide a copy of the purchase agreement to consumers, in order for it to be binding, and should adopt practices of maximum transparency in notifying consumers and businesses about their order status and delivery timing.

- I15.1 | Delivery:** Goods offered must be delivered and services performed within 30 days of the receipt of a properly completed order, or within any shorter period that may be prescribed by applicable law or within the time limit stated in the original agreement.
- I15.2 | Delay:** If delivery or performance will be delayed, the consumer or business must be advised within 30 days of the receipt of the order, or within any shorter period that may be prescribed by an applicable law or within the time limit stated in the original agreement.
- I15.3 | Order Cancellation:** Marketers must give consumers or businesses the right to cancel an order for goods or services which cannot be delivered or performed within 30 days, or any shorter period that may be prescribed by an applicable law, or within the time stated in the original agreement, without cost of obligation to the consumer or business.
- I15.4 | Substitution:** Any substitution of goods to those originally offered and ordered must be disclosed to and approved by the consumer or business before shipment. The consumer or business must be informed that they have the right to accept or reject goods substituted, without additional obligation or cost, including return shipping cost.
- I15.5 | Guarantees and Warranties:** Any guarantee provided with the provision of goods or services must clearly identify the name and address of the guarantor, the duration of such guarantee and any other required disclosures under applicable Consumer Protection law. Any valid request under the terms of a guarantee for repair, replacement, refund or other remedy must be honoured promptly.

## I16 | Automatically Billed Products or Services

Automatically billed products or services plans – in which the consumer or business agrees to receive and be billed for products or services on a continuing basis – are permitted.

The marketer must clearly inform the consumer or business of all material terms and obligations in the original marketing communication, including whether there is a right to cancel.

Marketers should not omit disclosure of any information that would reasonably be expected to affect the purchasing decisions of the average consumer.

Any material change in the products or services offered to a consumer or business who has previously agreed to be automatically billed for those products or services requires the marketer to obtain new consent. Such new consent should be explicit and preferably in writing. Consent may not be inferred from the customer's behaviour, including payment for the goods or services.

## I7 | Unordered Products and Services

Marketers must not send unsolicited products or services to a consumer or business for which they invoice, bill or otherwise demand payment. Consumers or businesses have no obligation in respect of the use or disposal of unordered products or services.

## I8 | Complaints

Marketers must establish and communicate fair, effective and timely procedures to handle complaints from consumers or businesses, having regard to any legally imposed response time requirements that may exist in particular circumstances.

## I9 | Accessibility

Marketers must comply with the applicable Canadian laws on accessibility. Marketers should inform themselves and strive to adopt best practices where financially or operational feasible.

# J | Protection of Personal Privacy

All marketers must abide by the Personal Information Protection and Electronics Documents Act (PIPEDA), its ten privacy principles described below, and applicable provincial privacy laws (in [British Columbia](#), [Alberta](#), and [Québec](#) only as of June 2019) and additional requirements as outlined in this Section.

## J1 | Ten Privacy Principles:

1. **Accountability:** An organization is responsible for personal information under its control, including information transferred to a third-party for processing. An organization shall implement policies and procedures to give effect to the following principles and shall designate an individual or individuals who are accountable for the organization's compliance with the following principles.
2. **Identifying Purposes:** The purposes for which personal information is collected shall be identified by the organization at or before the time the information is collected.
3. **Consent:** The knowledge and meaningful consent of the individual are required for the collection, use or disclosure of personal information, except where inappropriate. Consent may be express or implied and given either verbally or in writing, taking into account the sensitivity of the information and reasonable expectations of the individual. Consent may be withdrawn at any time. When personal information that has been collected is to be used for a purpose not previously identified, the new purpose shall be identified, and the consent of the individual obtained before information can be used for that purpose. See the [Guidelines for Obtaining Meaningful Consent](#) in force since January 2019.

4. **Limiting Collection:** The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.
5. **Limiting Use, Disclosure and Retention:** Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfillment of those purposes.
6. **Accuracy:** Personal information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is being used.
7. **Safeguards:** Personal information shall be protected by security safeguards appropriate to the sensitivity of the information, including through physical, organizational and/or technical measures. As per the [Breach of Security Safeguard Regulations](#) in effect since November 2018, organizations are required to notify the Privacy Commissioner as well as affected individuals in circumstances where personal information has been lost or stole, and individuals have been put at a risk of harm as a result. Organizations must keep records of all breaches.
8. **Openness:** An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.
9. **Individual Access:** Upon request, an individual shall be informed of the existence, use and disclosure of his or her personal information and shall be given access to that information, unless certain exceptions apply. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.
10. **Challenging Compliance:** An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance. Organizations must investigate all complaints, and where appropriate, update their policies and procedures.

For guidance on the implementation of these principles and the key tenets of PIPEDA, marketers are encouraged to consult the CMA Guides on [Privacy Compliance](#) and [Opt-Out Consent](#).

Canadian organizations dealing with the personal information of individuals in other countries must abide by the privacy laws applicable in those jurisdictions. With respect to the European Union (EU) General Data Protection Regulation (GDPR) in effect since May 2018, see CMA's [EU GDPR & ePrivacy Guide](#).

## J2 | Privacy and Business-to-Business

Business-to-business marketing is exempt from PIPEDA and from the 10 Privacy Principles above when the collection, use or disclosure of contact information is limited to name, and/or title/position, and/or business address(es), and/or business phone number(s). If any other personal information is collected, used or disclosed then the provisions of PIPEDA and this Section apply.



### **J3 | Use of CMA Do Not Mail Service**

Marketers must use [CMA's Do Not Mail Service](#) when conducting a consumer mail campaign. The service must be used regardless of whether the campaign is being conducted in-house or through the use of an agency. This does not apply to B2B marketing, or to current customers, who can separately request that they be included on an organization's internal do not contact list. When conducting telephone and/or fax marketing campaigns, marketers must use the federal government's [National Do Not Call List](#) in accordance with the rules of that program.

### **J4 | Opt-Out Opportunity**

Recognizing that a consumer can opt-out of receiving marketing communications at any time, marketers must present consumers, including current customers, an easy-to-see, easy-to-understand and easy-to-execute opportunity to decline further marketing use of their name or other information at least once every three years. On all electronic marketing communications marketers must present consumers, including current customers, with the prescribed unsubscribe functionality to decline further marketing on every electronic communication in order to be compliant with Canada's Anti-Spam Law. See also Sections [M3.10](#), [M4.6](#) and [M4.7](#) of this Code, Fax Marketing Opt-Out, Email Marketing Identification Requirements and Unsubscribe Opportunity and Text (SMS) Marketing Identification Requirements and Unsubscribe Requirements. For further information on Canada's Anti-Spam Law, members should consult the [CMA Guide to Canada's Anti-Spam Law](#).

### **J5 | Privacy Notice to Consumers**

A privacy notice to consumers is your organization's privacy commitment to its customers. It may also be known as a privacy policy. Marketers must clearly display a privacy notice across their digital platforms that articulates the organization's practices with respect to the collection, use and disclosure of the personal information of consumers. Access to the privacy policy must be provided in every location, site or page from which the marketer is collecting personal information.

The [CMA Guide to Transparency for Consumers](#) outlines best practices to help organizations simplify their privacy notice and practices, and tailor them to their business model and consumers' preferences.

### **J6 | List Rental Practices**

Marketers must only rent or transfer their lists where they have a contractual guarantee that list users will abide by the relevant privacy and anti-spam laws in Canada. Further, marketers should adopt a list rental and data transfer policy that limits rental of information only to organizations that agree to comply with [Section J3](#) of this Code, Use of [CMA Do Not Mail Service](#). (See also CMA [List and Data Transfer Guidelines](#) and [CMA Guide to Canada's Anti-Spam Law](#).)

## **K | Special Considerations in Communicating with Children and Teenagers**

By definition, Section K of this Code applies to marketing, communications and online services to consumers only.

When designing and developing communications directed to or likely to be accessed by a child or teenager, marketers should respect the privacy and best interests of this group.

In addition to the rest of this Code, and to specific legal requirements of the relevant jurisdiction(s), when communicating with children and teenagers marketers must adhere to the following requirements.

### **K1 | Age and Application**

For purposes of this Code, the term child refers to someone who has not reached their 13th birthday. The term teenager refers to someone who has reached their 13th birthday but has not yet reached the age of majority in their province or territory of residence.

By taking a risk-based approach that considers the age of individual users, marketers can effectively apply the standards in this Code to children and teenagers.

These guidelines do not apply to teenagers living independently of their parents or guardians and who by federal, provincial or territorial law or regulation are deemed to be adults.

### **K2 | Transparency and Age-appropriate Language**

All marketing, communications and online services directed to children and teenagers including legal terms such as privacy information, published terms of use, policies and community standards, must be concise, prominent and in clear, easily understood language appropriate to the age of the child or teenager.

Marketers should provide additional specific 'bite-sized' explanations about their use of personal data at the point that use is collected.

### **K3 | Detrimental Use of Data**

Marketers should assess and mitigate risks to the rights and freedoms of children and teenagers, which arise from their data processing. Marketers must not use children's or teenager's personal data in ways that could reasonably be expected to be, or have been shown to be, detrimental to their wellbeing, or that go against industry codes of practice or regulatory prohibitions or guidance.

## **K4 | Responsibility**

Marketing to children and teenagers imposes a special responsibility on marketers. Marketers must recognize that children and teenagers are not adults and that not all marketing techniques are appropriate for them.

Marketers must uphold their published terms, policies and community standards (including but not limited to privacy policies, age restriction, behaviour rules and content policies).

## **K5 | Trust**

Marketing to children or teenagers must not exploit their naivety, lack of experience, sense of loyalty, their impressionability, or susceptibility to peer or social pressures.

Marketers must not imply that possession or use of a product or service will make its owner superior to others, or that without it the individual will be open to ridicule or contempt.

## **K6 | Consent**

Since children may be exposed to communications directed to teenagers, communications to children and teenagers is governed by the following guidelines concerning consent.

**K6.1 |** Except as provided for in SECTION K8 of this Code, Contests Directed to Children, all marketing communications directed to children that include the request for, collection, transfer or use of personal information require the opt-in consent of the child's parent or guardian.

**K6.2 |** Marketers can establish communication with teenagers in defined stages, according to the sensitivity or type of information, the teenager's age and the nature of the consent to be provided as outlined below:

- Marketers must obtain opt-in consent from a teenager under the age of 16 for the collection and use of their contact information. See Glossary of Terms of this Code for a definition of "contact information".
- Marketers must obtain the opt-in consent of the parent or guardian prior to the disclosure of a teenager's contact information to a third party.
- Marketers must obtain the opt-in consent of the parent or guardian for the collection, use or disclosure of personal information other than contact information of a teenager under the age of 16.
- Marketers must obtain opt-in consent from teenagers age 16 and over for the collection, use and disclosure of their personal information.

**K6.3** | Where the child, teenager, parent and/or guardian withdraws or declines their consent to collect, retain, use or disclose a child’s or teenager’s information, marketers must immediately delete all such information from their database.

**Summary of consent provisions for marketing to children and teenagers**

Age	Type of Information	Opt-in Consent Requirement
Under 13	Any personal information	Parent or guardian
13, 14 and 15	Contact information; collection and use only	Teenager
13, 14 and 15	Personal information other than contact information; disclosure of contact information	Parent or guardian
16 and over	Any personal information	Teenager*

Notes:

- (i) As per SECTION K6.3 of this Code, a parent or guardian can withdraw consent to use or disclose personal information for children and teenagers of all ages, including 16 years of age and over.
- (ii) Subject to applicable laws, marketers may collect personal information from children for the purposes of contests without obtaining the parent or guardian’s opt-in consent, subject to SECTION K8.

**K7 | Data Collection and Sharing**

Unless marketers can demonstrate a compelling reason to do so, taking into account the best interests of the child or teenager, marketers must adhere to the following requirements regarding the collection, use and disclosure of the personal information of children and teenagers:

- a) Marketers must collect and retain only the minimum amount of personal information needed to provide the product or service.
- b) Geolocation options must be off by default and where parental controls are provided, marketers should give children and teenagers age-appropriate information about this setting.
- c) Marketers must provide a prominent notification for children and teenagers when location tracking or parental tracking is active. Options which make a child’s or teenager’s location visible to others must revert back to ‘off’ at the end of each session.
- d) Profiling should be ‘off’ by default and should only be used where marketers have appropriate measures in place to protect the child or teenager from any harmful effects.
- e) Marketers must not use techniques to lead or encourage children and teenagers to provide unnecessary personal information or weaken or turn off their privacy protections.
- f) Connected toys or devices must include effective tools to enable compliance with this Code.

Marketers must provide prominent and accessible tools to help children and teenagers and their parents and/or guardians exercise their privacy rights and report concerns.

## **K8 | Contests Directed to Children**

Subject to applicable laws, marketers may collect personal information from children for the purposes of administering contests without obtaining the parent or guardian's opt-in consent, only if the marketer:

- a) Collects only the amount of personal information required to determine the winner(s) and to contact the parent or guardian of the winner(s);
- b) Deals only with the winner(s)' parent or guardian and does not contact the winner(s) directly;
- c) Does not retain the personal information following the conclusion of the contest;
- d) Does not collect, use, retain or disclose the personal information other than to determine the contest winner(s) and to contact the parent or guardian; and
- e) Does not transfer or make available the personal information to any other individual or organization.

## **K9 | Commercial Transactions**

Marketers must not knowingly accept an order from a child without a parent or guardian's opt-in consent. Marketers must not pressure a child to urge their parents or guardians to purchase a product or service.

Marketers must be aware that transactions with teenagers may not be legally enforceable against the teenager, or their parent and/or guardian.

## **K10 | Special Considerations in Communicating with Teenagers**

Communicating with teenagers imposes special responsibilities on marketers. Marketers must use discretion and sensitivity in communicating with teenagers, to address the level of knowledge, sophistication and maturity of teenagers. Marketers should exercise caution that they do not take advantage of or exploit teenagers.

- K10.1** | Marketers must not portray sexual behaviour or violence that is inconsistent with community or industry standards.
- K10.2** | Marketers must respect the parent and/or guardian-teenager relationship and must not encourage the teenager to exclude parents or guardians from a purchase decision.
- K10.3** | Marketers must not solicit, collect or knowingly use personal information from teenagers as a means of acquiring further household information.
- K10.4** | When communicating with teenagers, marketers are strongly cautioned that children may also be exposed to these communications and in such cases, these interactions with children are governed by the Code guidelines concerning consent relating to children.

## L | Sub-Disciplines and Specific Marketing Practices

Marketers must adhere to the following requirements when employing specific marketing strategies and techniques.

### L1 | Direct Marketing and Catalogue

As the collection, use and disclosure of personal information is closely linked to direct marketing, marketers must be aware of the principles detailed in [Section J](#) of this Code, [Protection of Personal Privacy](#).

**L1.1 | Renting Lists:** Marketers and list owners or their representatives must define the parameters of the intended use of the list, ensuring the proper consent was obtained and ensuring that all withdrawals of consent are accounted for, prior to the deployment of a marketing communication. This is essential for electronic communications which are governed by Canada's Anti-Spam Law. Unless otherwise agreed to and specified in the list or data transfer contract:

- A list or data transaction permits one-time use only.
- Marketers may not transfer personal information from rented lists to their own marketing or customer files.
- Consistent with the definition of current customer, marketers may continue to contact those consumers or businesses that respond to direct marketing or to catalogue solicitations.

**L1.2 | Accessibility of the Marketer:** All direct mail marketing and catalogue marketing communications must identify the marketer's name, the mailing address and either a telephone number, email address or web address of the person sending the message or on whose behalf the message is sent. If it is not feasible to include this information in the message, marketers must post this information on a website or other digital platform that can be readily accessed by the recipient at no cost to them by way of a link that is clearly and prominently set out in the message.

**L1.3 | Pre-notification Membership Plans or Clubs:** A pre-notification subscription membership plan or club is a contractual plan offered by marketers to consumers. Under these plans, the seller pre-notifies the member of a selection that will be sent and billed to the member and billed for unless the member instructs the seller, via a method provided by the seller, not to provide the selection.

Advertising and promotional material for a pre-notification membership plan must clearly, comprehensibly and prominently disclose material terms before soliciting a contract from a consumer. Material terms include: number of selections in a 12-month period; number of days to instruct the seller not to ship; and any minimum purchase or membership term. A consumer must provide explicit consent to join.

For more information on disclosure requirements, see [Section I14](#) of this Code.

- L1.4** | Continuity Programs (also known as Advance Consent Marketing Plans): Programs where the consumer or business gives consent to receive and pay for products or services on a continuing or periodic basis until the recipient cancels the plan are subject to the requirements laid out in [Section I16](#) of this Code, Automatically Billed Products and Services.
- L1.5** | E-commerce: When selling products and services online markets must:
- provide a clear order confirmation process that allows the consumer to confirm his or her interest in buying, see all relevant details of his or her order, confirm the accuracy of the details and print the details of the order as submitted;
  - send a separate confirmation e-mail as soon as possible after the online portion of a transaction has been completed, including a copy of or link to the agreement and which meets the format requirements set out by Canada’s Anti-Spam Law; and
  - provide an online “click-through” mechanism for consumers to contact the company.
- L1.6** | Protection of Personal Information: Considering the fundamental importance of customer and prospect databases in direct and digital marketing and cataloguing, marketers should consult [Section J](#) of this Code, Protection of Personal Privacy and relevant guides, most specifically CMA’s [Privacy Compliance Guide](#).

## L2 | Sales Promotion

- L2.1** | Lotteries, Draws and Contests: The use of these practices in the promotion of goods or services must conform to all relevant federal, provincial and municipal laws. These marketing practices are highly regulated by law and marketers should obtain guidance from legal experts and/or professional lotteries, draws and contest administrators.

Marketers must provide adequate and fair disclosure of all terms and conditions of a contest in a manner that is clear, visible, easy to find, easy to read and easy to understand. Marketers are encouraged to consult the Competition Bureau’s [Enforcement Guidelines on Promotional Contests](#) for more information.

See also, [Section K8](#) of this Code, Contests Directed to Children and [CMA’s Guide to Promotional Contests](#).

- L2.2** | Field Marketing: Field marketing is the face-to-face promotion or sale of products or services to consumers. It includes merchandising, sampling, demonstrations, guerilla marketing and events.

Marketers must ensure that information provided directly to consumers by field personnel is not misleading and does not employ unreasonably aggressive sales tactics. See also, [Section I5.4](#) of this Code regarding undercover or word-of-mouth marketing initiatives. Field demonstrations must be carried out safely, by trained personnel.

**L2.3** | Sampling: In certain industry sectors (e.g. pharmaceuticals, food, alcohol), this marketing practice is highly regulated and marketers should obtain guidance from legal experts and/or sampling specialists.

Marketers must take reasonable steps to ensure that samples are not distributed inappropriately to children or teenagers.

### **L3 | Public Relations**

Marketers are encouraged to consult the Canadian Public Relations Society (CPRS) for more detailed guidance about professional standards in the practice of public relations.

**L3.1** | Dealing With the Media: In public relations activity, marketers must extend the practices identified in [Section I1](#) of this Code, Accuracy of Representation, to dealings with the communications media as well as to consumers and to businesses.

**L3.2** | Gifts or Privileges: Marketers must not exert improper influence on editorial decisions by giving away significant gifts or privileges.

**L3.3** | Disclosure: When engaged in marketing or public relations activity in the public arena on behalf of a client, public relations service providers must disclose the identity of their client.

### **L4 | Research**

Marketers should maintain high professional standards in the practice of research.

**L4.1** | Validity: Marketers must ensure that test, survey or other data reported in marketing communications is produced in accordance with established scientific principles and generally accepted research practices so that it is valid and reliable (technically reproducible). Claims must not take the research results out of context or distort them.

**L4.2** | Consent and Guarantees of Anonymity to Participants: Marketers must obtain consent for the use of personally identifiable information from individuals who are research participants. The use of research data is limited to that for which consent was given. Participants' anonymity must be respected where promised and they must be notified about observation techniques and recording equipment, except when the research takes place in a public place. Security measures must be in place to protect data containing personal information. Personal information may only be retained for as long as is necessary to carry out the purpose(s) for which the information has been collected.

**L4.3** | Special Care with Child Participants: Parental consent must be obtained when conducting research with children under 13; this requirement extends to teenagers under the age of 16 when they are to be interviewed for qualitative research purposes. In the case of research conducted online, marketers must use their best efforts to ensure that they do not elicit participation from children or teenagers without appropriate parental consent.



**L4.4** | Differentiation from Marketing: Bona fide market research must be clearly differentiated from other marketing activities and research interviews must not be used to sell products or services, develop sales leads, gather personal information or compile mailing lists.

Findings from survey-style questionnaires used within marketing communications or for customer service purposes must not be positioned, either explicitly or implicitly, as bona fide research unless it conforms to generally accepted research methodologies.

**L4.5** | Comparative Claims: Research that supports comparisons to other products or services must be subject to scrupulous methodologies. Marketers are encouraged to consult Ad Standards for their [Guidelines for the Use of Comparative Advertising](#).

## L5 | Direct Mail

**L5.1** | Use of CMA Do Not Mail Service: Marketers must use [CMA's Do Not Mail Service](#) when conducting a consumer direct mail campaign.

**L5.2** | Internal Do Not Mail List: At the request of a consumer or business, including a current customer, marketers must promptly add names and addresses to an internal do not contact list and cease marketing to that current customer, consumer or business at that address. Names and addresses must be retained on the internal do not contact list for three years.

**L5.3** | Special care should be given to requests to stop direct mail for deceased individuals. Upon receipt of a request to add the name and address of a deceased individual to an internal 'Do Not Contact' list, businesses should promptly add the name and address of the deceased individual and cease sending any communications, including pre-printed letters that may already be in the pipeline for mailing. Marketers should work closely with agencies and other providers to ensure that the names and addresses of deceased individuals are removed from any direct mailings and related databases. This should be done at least every 6-8 weeks to avoid the inadvertent posting of any pre-printed or future mail to the deceased.

**L5.4** | Security: All electronic transfer of data should be password protected and encrypted. For accepted standards, please refer to the [CMA List and Data Transfer Guidelines](#).

## L6 | Out-of-Home/Outdoor Advertising

Marketers using media that deliver advertising messages in public arenas should ensure that the content of their messages is sensitive to and compatible with local community standards, particularly when located in proximity to elementary and secondary schools or to other places where children or teenagers tend to congregate.

## M | Media-Specific Standards of Practice

In addition to other provisions of this Code, marketers must adhere to the following requirements when employing specific media to communicate marketing messages.

### M1 | Broadcast, Including Direct Response Television and Infomercials

Marketers and their agencies should consult Advertising Standards Canada and thinktv Clearance for detailed guidance about the development and clearance of commercials, infomercials and public service announcements.

**M1.1 | Misrepresentation:** Marketers must not employ presentations likely to mislead the average consumer or business that the presentation is news, information, public service or entertainment programming. (Product placement within entertainment programming is acceptable.)

**M1.2 | Endorsement:** Except where the endorser is identified as an expert or is a generally recognized celebrity (whose sole connection with the marketer is the payment of a fee for the endorsement), any material connection between the endorser and the marketer must be disclosed.

Results, experiences or findings of the endorser must be generally representative of the results to be expected by the average consumer or business. Alternatively, the marketer must clearly and conspicuously explain that the experiences or findings are not typical of the experiences of the average consumer or business.

Marketers should also reference [Section 16](#) of this Code.

**M1.3 | Direct Response Television:** Commercials that solicit orders must clearly disclose the price, purchase terms, shipping costs and currency (if other than Canadian) and any other material terms of the offer in a clear, comprehensible and prominent manner.

**M1.4 | Infomercials and Transparency:** Television commercial messages exceeding two continuous minutes in length must be preceded and followed by a clear or prominent video and oral announcement that the presentation is a paid commercial message. This announcement must identify the product or service being offered and the marketer's identity. The video and a clear written announcement must also be presented prior to each ordering opportunity.

Radio commercials exceeding three minutes in length must be identified as paid commercial messages by clear and prominent announcements at the beginning and end of the program. Should the program be interrupted for any reason, another such announcement must be made prior to the resumption of the program.

For those infomercials intended for adults only, the opening disclaimer must notify viewers that it contains content intended for adults. This notification must be provided in both audio and video.

- M1.5** | Radio Broadcasting: As a local medium that reflects community standards, marketers should take the local environment into consideration, including the programming environment, the station’s format and the composition of the station’s audience.

## **M2 | Magazines, Newspapers and Trade Press**

- M2.1** | Misrepresentation: Marketers must not employ text or design elements that mimic a publication’s editorial style unless the pages clearly and conspicuously contain the word “advertisement”, “advertising” or “advertorial”.
- M2.2** | Sponsored Sections: Where “advertorial” formats are used, the sponsored Section must be identified as such.

## **M3 | Telephone and Fax**

These standards of practice apply to commercial solicitation relating to the purchase of products or services, or requests for charitable donation conveyed by telephone voice communications (also known as telemarketing), or by means of telephone facsimile (also known as fax). (See [CMA’s Telemarketing Regulations in Canada Guide](#)).

- M3.1** | Calling and Faxing Hours: Marketers must limit the hours of outbound telemarketing or faxing to the hours of 9:00 a.m. to 9:30 p.m. weekdays and 10:00 a.m. to 6:00 p.m. Saturdays and Sundays. Restrictions refer to the time zone of the called party. Daylight savings time changes must be implemented immediately upon the time change to maintain compliance. Calling or faxing must not be undertaken on statutory holidays.
- M3.2** | Use of National Do Not Call List: Marketers must subscribe to the National Do Not Call List and must remove any telephone number from their marketing list (that are on the National Do Not Call List) when conducting a consumer telemarketing or fax campaign in accordance with the Unsolicited Telecommunications Rules.
- M3.3** | Internal Do Not Call List: At the request of either a current customer or a consumer or business, marketers must add telephone or fax numbers to an internal do not call list within 14 days of the request and cease marketing to the current customer, consumer or business at that telephone or fax number. Numbers must be retained on the internal do not call list for three years and 14 days.
- M3.4** | Calls to Mobile Devices: Marketers must not knowingly call or send voice messages to wireless devices of either consumers or businesses without prior consent.
- M3.5** | Unlisted Numbers: Marketers must not knowingly call any consumer or business who has an unlisted or unpublished telephone number, except where the telephone number was provided by the consumer or business to that marketer, or by a third-party with the consumer’s consent.
- M3.6** | Sequential Dialing: Marketers must not engage in sequential dialing.

- M3.7** | Random Dialing: Marketers must not engage in random dialing other than to a list or public directory where it is possible to remove telephone and/or fax numbers that are on the National Do Not Contact List and/or on a marketer’s internal do not contact list.
- M3.8** | Unsolicited Fax Marketing: Marketers must not knowingly send unsolicited marketing communications by fax to consumers or businesses, except where the consumer or business is a current customer or has consented to receive such communications.
- M3.9** | Fax Marketing Identification and Contact Information: Marketers must identify the marketer on behalf of whom the fax is being sent, including the telephone number, fax number and name and address of a responsible person to whom the faxed party can write.
- Marketers must display the originating faxing number or an alternate number where the sender can be reached, except where number display is unavailable for technical reasons.
- M3.10** | Fax Marketing Opt-Out: Marketers must provide an easy-to-see, easy-to-understand and easy-to-execute opt-out opportunity within each fax advertisement.
- M3.11** | Telephone Identification and Contact Information: Marketers must identify themselves, the business or organization represented and the purposes of the call promptly at the beginning of each outbound telemarketing call.
- Upon request, the marketer must provide the marketer’s telephone number and the name and email or postal address of a responsible party to whom the called party can write. The number must be local or toll-free and must be answered either by a live operator or equipped with a voicemail system. The telephone number and the name and email or postal address of the responsible party must be valid for a minimum of 60 days after the campaign has started.
- Marketers must not block Caller ID information, unless there is a significant technological impediment to providing this information to the consumer.
- M3.12** | Voice Recording: Marketers must obey the laws concerning voice recording and they must advise consumers when recording a goods or services transaction.
- M3.13** | Frequency: Marketers must not knowingly contact a consumer who is not already a current customer more frequently than once per month for the same product or service unless they have received consent to do so. Business-to-business marketing is exempt from this requirement, as prospect development often requires more frequent contact, calling a business office is less intrusive than calling a consumer at home and B2B marketing often involves contacting multiple individuals within the same company.
- M3.14** | Use of Predictive Dialer Technology: Marketers using predictive dialer technology should ensure that abandoned or “hang up” calls be kept as close to 0% as possible, and must in no case exceed 5% of dialed calls for any given outbound telemarketing campaign.
- M3.15** | Recordkeeping: Marketers are required to retain certain telemarketing and fax records pursuant to the Unsolicited Telecommunications Rules. See the [CMA’s Telemarketing Regulations in Canada Guide](#).

## M4 | Mobile and Web

- M4.1** | Collection of electronic addresses (i.e. Email Addresses or Mobile Numbers): Marketers must identify the purpose for which an email address or mobile number is being requested prior to or at the time of collection, except where not required under Canada’s Anti-Spam Law.
- M4.2** | Published Business Email Addresses: Published business email addresses must only be used for marketing communications relevant to the business of the email recipient, provided a statement does not accompany the published address indicating that the address is not to be used for the purpose of marketing communications.
- M4.3** | Email Consent: Marketers must not send email marketing communications without the express or implied consent of the recipient, unless otherwise exempt from CASL. Express consent must be obtained by way of positive action on behalf of the recipient. Consent may be implied as a result of an existing business or non-business relationship with the recipient, the disclosure or conspicuous publication of the email address or other prescribed means. Requests for consent must be compliant with the requirements of [Canada’s Anti-Spam Law](#).
- Marketers must be able to demonstrate that they have met the consent requirements, including whether the consent was obtained in writing or orally, when it was obtained, why it was obtained, and the manner in which it was obtained. For more information, consult the Glossary and the [CMA Guide to Canada’s Anti-Spam Law](#).
- M4.4** | Test Messages: Marketers must comply with Canada’s Anti-Spam law if the text message is commercial in nature and must adhere to the Canadian Wireless Telecommunications Association’s [Canadian Common Short Code Application Guidelines](#).
- M4.5** | Internal Do Not Email or Text List: At the request of a consumer or business, including a current customer, marketers must promptly add email addresses and mobile numbers to an internal Do Not Email or Text List and cease marketing to that email address or mobile number, and in any event in no longer than ten business days.
- M4.6** | Email Marketing Identification Requirements and Unsubscribe: Opportunity Every email message must clearly identify the marketer sending the message, or the marketer on whose behalf the message is being sent, and the mailing address and either a telephone number, email address or web address of the person sending the message or on whose behalf the message is sent.
- Every commercial electronic message must also contain a readily accessible unsubscribe mechanism that is functional for 60 days and processed as promptly as possible and in any event in no longer than ten business days.

**M4.7** | Text (SMS) Marketing Identification Requirements and Unsubscribe Opportunity: Every text message must clearly identify the marketer sending the message, or the marketer on whose behalf the message is being sent, and the mailing address and either a telephone number, email address or web address of the person sending the message or on whose behalf the message is sent. If it is not practicable to include this information in the message, marketers must post this information on a website or other digital platform that can be readily accessed by the recipient at no cost to them by way of a link that is clearly and prominently set out in the message.

Every commercial electronic message must also contain a readily accessible unsubscribe mechanism that is functional for 60 days and processed as promptly as possible and in any event in no longer than ten business days.

**M4.8** | Email Disclosure: Marketers must not misrepresent the source of any message or use false or misleading “subject” lines in e-mail marketing communications. Email marketing communications, including the subject line and body text, must accurately reflect the content, origin and purpose of the communications. Emails must contain accurate headers, including clearly identifying the sender in the from line and must contain accurate footers, ie., company mailing address, phone number, contact address, website link and unsubscribe link.

**M4.9** | Mobile and Web Disclosures: Prior to a consumer streaming, attempting a downloading activity, or opting into a mobile marketing program, marketers must provide the information necessary to allow consumers to make an informed decision (i.e. additional data charges, applications and other content). Disclosures must be accessible for a reasonable time following a transaction, and, at a minimum, during the ongoing provision of goods and services that result from the transaction.

**M4.10** | Online Interest-based Advertising: Online interest-based advertising involves the collection and use of data regarding an individual’s online web activities (such as purchasing patterns and search queries) across multiple websites over time, in order to deliver targeted advertisements based on the consumers’ inferred interests. See [Section J](#) of this Code.

1. **Transparency:** Marketers using online interest-based advertising should ensure, by contract where necessary, that they, and the ad networks and website publishers used to display interest-based ads on their behalf, exercise transparency about the collection, use, disclosure and retention of data concerning consumers’ online activities over time. Transparency means (a) openness and providing clear explanatory information about how browsing information is collected and what the information is used for and (b) an easy means to draw consumers’ attention to that information; both in a manner consistent with accepted industry best practices (see also, the [Digital Advertising Alliance of Canada](#)).

2. **Consent:** Marketers must take the appropriate steps to ensure that the ad networks and online publishers that are used to display interest-based ads on their behalf offer consumers a clear and easy to see, easy to understand and easy to execute means to opt-out from having their online activities over time tracked to support the delivery of interest-based ads. Marketers using this type of advertising should ensure that they or their service providers use established industry best practices to provide notice of data collection, use, disclosure and retention for interest-based advertising, and that appropriate consent is being obtained from consumers. (see also, the [CMA Opt-out Consent Guidelines](#))
3. **Children:** Marketers should not engage in or contract for the use of online interest-based advertising that is knowingly directed at, or knowingly conducted on, websites principally aimed at audiences of children under age 13, except in situations where express opt-in consent has been obtained separately from parent(s) or guardian(s). (See also, [Section K](#) of this code, [Special Considerations in Communicating with Children and Teenagers](#))

**M4.11** | Mobile, Social Media and Web Contests: Marketers must present all disclosures, terms and conditions of a contest in a manner that is clear, visible, easy to find, easy to read and easy to understand. Disclosures must be accessible for a reasonable time following a transaction, and, at a minimum, during the ongoing provision of goods and services that result from the transaction. See [CMA Guide to Promotional Contests](#).

**M4.12** | Accessibility: Marketers must comply with all applicable accessibility laws. Marketers should strive to meet the industry standard, including the [Web Content Accessibility Guidelines](#) (WCAG) 2.0 and 2.1 for websites, including mobile web.

## N | Responsibilities of Service Providers Including Agencies and Call Centres

In their role as suppliers to marketers and as key contributors to the marketing industry, service providers are responsible for upholding the highest standards of professionalism and business conduct as set out in this Code in its entirety, with particular attention to this Section, and to [Section O](#).

### N1 | Confidentiality

Service providers must protect the confidentiality of their clients' proprietary information by not disclosing it without opt-in consent from the client, unless required by law.

## **N2 | List Transfer**

Whenever lists are being transferred to a service provider, service providers must provide a contractual guarantee that they will abide by privacy and anti-spam laws in Canada, as well as applicable laws in other jurisdictions, as these apply to the transfer, handling or storage of the data. (See also [CMA List and Data Transfer Guidelines](#).)

## **N3 | Screening for Approval**

List owners or their representatives should require marketers who are using their lists to provide accurate samples of the marketing communications in advance to help ensure that marketing communications comply with this Code and relevant laws.

## **N4 | Use of CMA Do Not Mail Service**

Service providers should encourage clients that are not CMA members to use [CMA's Do Not Mail Service](#) when conducting a consumer mail marketing campaign.

## **N5 | Conflict of Interest**

Service providers must not:

1. enter into a business relationship with a third-party that conflicts with their client's interests, without the client's knowledge; or
2. accept compensation or rewards from third parties that create obligations detrimental to their client's interests, without the client's knowledge.

## **N6 | Disparagement**

Service providers must not use inaccurate information to attack, degrade, discredit or damage the reputation of competitors.

## **N7 | Misrepresentation**

Service providers must not misrepresent their competence, credentials, experience or professional capabilities.

## **N8 | Authorship**

Providers of creative services must not copy the work of others or claim authorship of others' work without the consent of the originator or owner of the work.



## **N9 | Responsibility**

While service providers are not normally responsible for the content of marketing materials they only disseminate or distribute (the “Publisher’s Defence”), they should insist on their clients’ compliance with this Code when they are aware of a breach or where they have a role in developing the content of the communications.

## **O | Agency Search Principles**

Marketing effectiveness is often closely tied to the quality of partnerships between marketers and the agencies they rely on for strategic and creative services. The foundation of these partnerships is often a search – which has significant impact on client and agency resources and business outcomes. The CMA has developed seven basic principles that members and their third-party procurement partners should follow to support professionalism and fairness in the industry, for the benefit of clients, agencies, and the Canadian industry.

### **O1 | Information in a Request for Proposal (RFP)**

- O1.1 | Contract Value:** RFPs should always clearly state the approximate commercial size of the assignment as well as the required scope of work in as much detail as possible so the agency may provide the most accurate estimate for both quality and cost of work. The RFP should also clearly state and contain all relevant financial components with as much accuracy or as reasonable of a range as possible so that the agency can provide the best and most realistic cost estimate possible.
- O1.2 | Client Search Committee:** RFPs should include the names and roles of the individuals who will evaluate the submissions and presentations, as well as any designated client contacts.

### **O2 | Requirements of an RFP**

- O2.1 | Financial Disclosure:** It is appropriate to request information pertaining to total agency annual investment, agency revenue, a current client list, or certification from an accountant and client references. It is never appropriate to require full financial disclosure from an organization, including margins.
- O2.2 | Speculative Work:** The CMA discourages requests for speculative creative or strategic work during an RFP process. In cases where agencies are asked to work on a client’s current, real world challenges during the RFP process:
  - a) The brief should be limited to one aspect of the challenge, not the entire challenge.
  - b) Agencies and clients should sign non-disclosure and non-use agreements.
  - c) If the client wishes to make use of speculative work, the parties should first come to an agreement on reasonable compensation.

### **O3 | Communication During the RFP Process**

Agencies should only communicate about the RFP with individuals specifically named in the RFP as designated contacts.

### **O4 | Result Notification**

**O4.1** | Search Outcome: Non-winning agencies should be formally notified in writing within one week of the winning agency being advised of its success.

**O4.2** | Debriefing: Non-winning agencies should be debriefed by the most senior decision-maker of the client search committee or by a senior member of the Marketing team.

## **P | Environmental Citizenship**

### **P1 | Environmental Representations**

Marketers must not make any false or misleading representations about environmental impacts and must comply with the federal Competition Act (see the Competition Bureau's notice about [environmental claims](#)).

### **P2 | Environmental Footprint**

This responsibility should include the use of: targeted marketing techniques to improve the efficiency of addressed and unaddressed direct mail, printed advertising, brochures and inserts; environmentally friendly product packaging and shipping materials; recycled papers and environmentally benign inks and other materials; materials recycling programs; and the active encouragement of environmental responsibility among members of the business community.

In addition, marketers must use [CMA's Do Not Mail Service](#) for consumer campaigns to reduce unwanted mailings, and thereby reduce wasted materials.

## **Q | Adoption and Enforcement**

**Q1** | CMA members confirm their compliance with this Canadian Marketing Code of Ethics & Standards annually, as outlined in [Section G1](#). The CMA takes steps to educate and inform member company employees about the provisions of the Code to strengthen compliance.

**Q2** | Upon receipt of a consumer complaint regarding a perceived violation of this Canadian Marketing Code of Ethics & Standards by a member or non-member, the Canadian Marketing Association will contact the organization and use the Association's internal mediation procedures to attempt to resolve the consumer complaint.

- Q3** | If no response is received from a member organization within 30 days of the Association's inquiry, or a member organization fails to satisfy the consumer complaint within 90 days, the Association will write to the organization to seek compliance with the Canadian Marketing Code of Ethics & Standards.
- Q4** | If the Association is not satisfied that the member organization has made best efforts to comply, the case shall be referred to an independent party for:
- mediation between the Association and the member organization and resolution of the issue(s), or failing that,
  - a hearing before an independent panel of at minimum three persons, which will report and recommend a resolution and/or corrective action to the CMA Board of Directors.

## Glossary of Terms

**Business-to-Business (B2B) marketing:** Marketing products or services to other companies, government bodies, institutions and other organizations.

**Child:** A person who has not reached his or her 13th birthday.

**CMA Do Not Mail (DMN) Service / List:** The [CMA Do Not Mail Service](#) enables consumers to reduce the number of marketing offers they receive by mail. Unless there is an existing business relationship, marketers must use the CMA DMN list to cross-reference and purge all fax and mail marketing lists, removing the contact information of those who are on the CMA DMN list.

**Consent:** A voluntary agreement for what is being done or proposed. There are different types of consent and a range of processes may be used to obtain consent. The two broad types of consent are:

- Implied consent, which can be reasonably inferred from the circumstances of a given relationship, transaction or situation. Implied consent is often used in dealings with one's current customers.
- Express consent, which is definite and unmistakable and results from an action or message from a consumer (or from a business in the B2B context) which is given orally or in writing. Consent to use personal information may be considered express consent where an opt-out opportunity has been clearly and unmistakably offered at the point where a consumer or business provides the information and/or confirms their agreement to a transaction. However, express opt-in consent must be obtained to use sensitive personal information, or in situations involving children or teenagers as outlined in the CMA code.

The form or process used to obtain consent should depend on the situation and the sensitivity of the personal information that is involved. The following are examples of the different forms of consent that may be used to obtain an individual's agreement to collect, use or disclose their personal information:

Consent can be implied in circumstances where it is reasonably inferred from the initial agreement that an existing customer, subscriber, or donor will expect to receive a service renewal notice or solicitation for a further donation to the same cause.

Consent can be obtained through the presentation of an explicit opportunity to a consumer or business to opt-out or refuse to grant permission, for example:

“We occasionally make our client list available to carefully screened companies whose products or services we feel would be of interest to our customers. If you would prefer not to receive such offers, please check here: “

Consent can be obtained through the presentation of an explicit opportunity to a consumer or business to opt-in or indicate that they grant permission, for example:

“If you would like your child (under age 13) to receive copies of our monthly kids-club newsletters, please check here: “

When dealing with electronic communications that are subject to Canada’s Anti-Spam Law, marketers should utilize the following definitions:

- Implied consent is triggered by a specific set of circumstances as defined by Canada’s Anti-Spam Law. These circumstances include situations where there is an existing business or non-business relationship with the recipient, in which case consent is valid for a period of two years after the last transaction. Consent can also be implied by the conspicuous publication or other disclosure of the email address, provided the address is not accompanied by a statement indicating that no commercial electronic messages are sent to the address AND the message is relevant to the person’s business role, function or duties in a business or official capacity.
- Express consent is definite and unmistakable and results from an action or message from a consumer (or from a business in the B2B context) which is given orally or in writing. This consent must be obtained separate and apart from the general terms and conditions. In all cases, express consent must be obtained via opt-in methods.
- Consumer marketing: Marketing products or services to individuals when they are purchasing for personal or household use.
- Contact information: A subset of personal information, contact information refers solely to an individual’s name, home address, e-mail address and/or telephone numbers. This subset of personal information is considered non-sensitive.
- Current customer / Existing business relationship: An existing business/consumer relationship or current customer relationship exists where a consumer has made a purchase or donation, has rented, leased or contracted for, or has otherwise participated in a organizations provision of products or services within the past 18 months, or a period consistent with that organization’s normal buying cycle; and an existing business/consumer relationship is also defined as continuing for six months from the date of an inquiry or application from a consumer.
- Email: A system for sending messages from one individual to another via telecommunications links between computers or terminals. This includes the sending of direct messages over social media networks and similar platforms.

- **Internal do not contact list:** A list of current customer, consumer or business contact information of those persons or businesses who have requested that they not be contacted by the marketer's organization. It is used to cross-reference and purge that information from any list to be used for any marketing campaign by that organization. Often referred to as an "internal deletion list", this Code requires that internal do not contact lists must be maintained by every organization that markets for every channel by which they market.

**Marketing:** A set of business practices designed to plan for and present an organization's products or services in ways that build effective customer relationships.

**Personal information:** Information about an identifiable individual. This does not include the name, title, or business address or telephone number of an employee of an organization.

**Request for Proposal:** A Request for Proposal (RFP) is a solicitation document by which an agency or company elicits bids from suppliers to provide a product or service.

**Teenager:** A person who has reached his or her 13th birthday but has not yet reached the age of majority in his or her province or territory of residence.

**Third party:** An organization or individual corporately distinct from that with which the customer originally did business (for example a list rental company), including an organization corporately related to the original marketer or part of the same group, where the relationship would not be apparent to the customer. Third parties do not include data processors operating on behalf of the organization with which the customer has an established business relationship.

**Word-of-mouth marketing:** Also sometimes referred to as "buzz" marketing, word-of-mouth marketing is capturing the attention of consumers and the media to generate favourable word of mouth about a brand, product, service or organization.