

Best Practice Guidelines for Fax Marketing

Reviewed November 2006

The Marketing Association has designed 6 Guiding Principles for Fax Marketing to safeguard receivers from getting unwanted, unsolicited marketing communications via their fax machines.

Each of the Principles complements the others and should be taken into consideration as a collective entity. These Best Practice Guidelines also match the requirements of the Code of Practice for Direct Marketing in New Zealand.

In brief, the 6 Principles are:

- 1.** Target Business Fax Machines
- 2.** Tell the Recipient Who You Are
- 3.** Provide an Opt-Out Mechanism
- 4.** Minimise Inconvenience
- 5.** Basic Truth in Advertising Doctrine Applies
- 6.** Fax Database Lists comply with Privacy Act

Key Definitions

Originator / Client

The party that makes the offer in the fax artwork, or commissions/initiates the broadcast. The Originator requests that a given piece of artwork be sent to a list of fax recipients on a Broadcast List.

Fax Marketing Agency (FMA)

The party that acts for the Originator, by

- providing a database of contacts to create a Broadcast List, and/or
- preparing the Originator's Broadcast List for a fax broadcast, and/or
- schedules a given piece of artwork be sent by fax to the Broadcast List

Fax Capacity Provider (FCP)

The party that provides telecommunication services to transmit the artwork to the fax numbers identified on the Broadcast List.

Broadcast List

The Broadcast List may be:

- a proprietary list of fax numbers administered by the Originator, or
- a rented or licensed list of fax number supplied by another party who administers it (i.e. a Fax Marketing Agency, a Fax Capacity Provider or a third party).

The Sender

The 'Sender' carries out the functions of Broadcast List administration – including sourcing the Broadcast List, but more importantly REMOVING fax numbers from a Broadcast List.

Given that the roles above are not fixed – a client may broadcast faxes using:

- an internally sourced Broadcast List via either a FMA or FCP, or
- a FMA with a proprietary or rented Broadcast List, or
- a FCP using a proprietary or rented Broadcast List.

Given the variability of the potential contractual situations, these guidelines cannot prescriptively allocate the responsibilities of 'Sender' to any one party. The responsibility of 'Sender' will vary between the parties depending on the contractual context.

For the purposes of establishing best practice in the industry, the 'Sender' is defined as the party that Fax recipients should contact to be removed from a Fax Broadcast List.

The working party recommends that each contract for a fax broadcast should identify the party who will assume the role of 'Sender' (i.e. broadcast list administration / number removal). This will clearly link fax Marketing Best Practice requirements to one of the parties in the broadcast relationship.

Principle One – Target Business Fax Machines

Best Practice Fax Marketing demands that the Sender of fax broadcasts must target business fax numbers

Key Considerations

- Fax Marketing is primarily a “Business to Business” communication tool, however it also includes broadcasting to businesses in order to communicate with the individuals who work within those businesses
- The Sender must target business fax machines, and must not target private or individuals’ fax machines
- “Business to Individual” fax broadcasting may be undertaken only with the permission of the individual

It is acceptable to:

- Orient your communication towards individuals within the organisations targeted.
- Broadcast to businesses where those businesses’ fax numbers are in the public domain.
- The test for “Public Domain” includes:
 - Publication in a business directory (such as the Yellow Pages / UBD)
 - Inclusion in a third party database list (which conforms with Principle 4b of the Marketing Association’s Code of Practice)
 - Available via business cards
 - Given/provided with consent
 - As the result of an existing business relationship.

It is NOT acceptable to:

- Broadcast to individuals’ private fax numbers (i.e. home fax numbers) unless they have opted in to receive unsolicited fax messages.

Principle Two – Tell the Recipient Who You Are

**Every fax page should identify the
Originator and the Sender**

Key Considerations

- The purpose of this principle is two-fold:
 - To assure the recipient that the offer or communication is genuine.
 - To identify who the recipient should contact to block faxes to their fax number
- By identifying the Originator, the communication will make it obvious to the recipient who is making the offer. Omission of the Originator's details may increase the likelihood that the communication misleads recipients. This requirement closely aligns with Principle 2(e) of the Marketing Association's Code of Practice.
- By identifying the Sender, we will assist recipients to understand who holds their fax number details, and who should be contacted to "Opt Out" of broadcasts (or amend details if required).

This requirement aims to achieve the same purpose as Principle 5(b).1 of the Marketing Association's Code of Practice. It also aligns with Principle 3 of the eMarketing Network's Guiding Principles for Responsible email Marketers.

- Contact Details for the Sender should include:
 - Sender's Company or Trading Name, and
 - Phone number, and/or
 - Fax number, and/or
 - Email address, and/or
 - Website address.

It is acceptable to:

- Identify the Originator and/or Sender in the form of a logo, provided the logo makes the party's name obvious to the recipient
- Provide one or more methods for the recipient to "Opt Out"

It is NOT acceptable to:

- Hide the originator's name or contact details, or falsify the details to imply a level of undue credibility
- Hide or falsify the Sender's name and/or contact details

Principle Three – Provide an Opt-Out Mechanism

Every Fax page must identify how a recipient can “Opt Out” of future broadcasts and those requests are to be actioned promptly

Key Considerations

- Every fax page should clearly identify the method by which a Recipient can arrange to “Opt Out” of receiving further fax broadcasts from the Sender.
- When requested to do so by a fax recipient, the Sender must have a process to remove (or block) fax numbers from future Fax Broadcast Lists.
- The Sender should take all reasonable steps to ensure that an “Opt Out” request is actioned in a prompt manner.
- If asked by recipient, the Sender should be able to tell them how they obtained their fax number (i.e. the origin of the recipient’s fax number)

NOTE: Harmonisation with the Marketing Association’s “do not contact” list was considered. Since the focus of that list is to block private details, and the focus of these guidelines is to establish best practice for Business to Business Faxing, it was decided that there was no benefit aiming for harmonisation. Additionally, there is no known simple method of identifying fax numbers used by home-based businesses.

It is acceptable to:

- Use one or more of the following “Opt Out” request mechanisms:
 - phone, fax, email or website
- Use of a Toll Free number for phone calls and/or faxes is recommended

It is NOT acceptable to:

- Have poor “Opt Out” compliance systems that do not allow the Sender to block broadcasts to the Recipient within a prompt timeframe.
- Intentionally ignore requests to be removed from future Broadcast Lists
- Intentionally re-add blocked fax numbers to the database in the future and re-establish unwanted contact.
- Charge more than Standard / National toll rates for calls to make requests to remove a fax number from a broadcast list:
 - 0900 phone / fax number
 - premium-rate fax-back number
 - slow fax modem (which slows the transmission rate of Opt-Out faxes)
 - These situations transfer a higher than acceptable cost premium back to the recipient trying to Opt-Out

Principle Four – Minimise Inconvenience

**The Fax Sender should take reasonable steps
to minimise inconvenience to the public**

Key Considerations

- The Sender should take into account various ways to ensure that businesses and the public are not unduly inconvenienced by the activity of broadcasting via fax. Constant reallocation of Phone and Fax numbers means that recipients of faxes are sometimes not the intended targets – hence the need to be wary of public as well as business inconvenience.
- Clear Opt-Out processes are required to handle removals first-time.
- Time embargoes should be implemented to reduce the incidences of unintended inconvenience outside extended business hours.
- Low density imagery should be considered.
- Limit the number of automatic Retries the fax software attempts to no more than 5 Automatic Retries for Busy or Error signals.

It is acceptable to:

- Provide an Opt-Out mechanism via phone / fax at standard calling rates

It is NOT acceptable to:

- Constantly redial fax numbers
- Use very heavy density faxes
- Avoid fax number blocking / suppression / removal
- Offer a questionable response mechanism within the fax communication.
 - such as asking recipients to use an 0900 number at unreasonable costs to respond to a marketing / sales / enquiry offer

Principle Five – Basic Truth in Advertising Doctrine Applies

**Fax Senders must comply with the laws of New Zealand
and must intend to only transmit ethical advertising**

Key Considerations

- This Principle assumes that parties involved in Fax Marketing already comply with all New Zealand law.
- In addition, the “Basic Truth in Advertising” doctrine applies to Fax Marketing
- This requirement aligns with Principle 1 of the Marketing Association’s Code of Practice for Direct Marketing.

It is acceptable to:

- Put the onus for conformity with provisions of the Fair Trading Act back onto the Originator of the fax communication or artwork.
- Refuse to broadcast fax communication where the Sender has doubts as to the communication’s compliance with Fair Trading provisions.
- Employ teaser-type copy where it does not intentionally contravene the provisions of the Fair Trading Act.

It is NOT acceptable to:

- Knowingly broadcast false, misleading or deceptive advertising or communication.

Principle Six – Fax Database Lists comply with Privacy Act

**Fax database lists must comply with the Privacy Act,
must not be offered to other parties without consent,
and they must not be acquired or harvested randomly.**

Key Considerations

- Fax Marketers must observe the requirements of the Privacy Act and respect the privacy of companies and individuals. See Principle 1 for the test of Public Domain.
- This principle aligns with Principle 1(b) and Principle 4(b).5 of the Marketing Association's Code of Practice for Direct Marketing
- The Sender should employ proactive database list management practices to ensure the appropriate management and actioning of broadcast errors and new records – in order to keep the database as up-to-date as practical
- Fax Database lists should not be offered to third parties without the prior consent of those whose fax numbers are on the list

It is acceptable to:

- Put the onus for database management and privacy issues back on the Client (as Sender), where they are the party supplying the Broadcast List
- Advise those clients who provide their own Broadcast List to handle their own fax number removals as part of their database management practices

It is NOT acceptable to:

- Harvest fax numbers to create a Broadcast List
 - “Harvest” means collecting fax numbers via anonymous collection procedures - for example using computer programme to dial numbers at random seeking and registering fax dial tone responses
 - This concept aligns with Principle 6 of the eMarketing Network's Guiding Principles for Responsible Email Marketers.
- Broadcast to numbers at random (including telephone and fax numbers)
- Broadcast to fax numbers without knowing the location of those fax numbers

Process for Reviewing the Guidelines

These Guiding Principles were forwarded to interested parties in the Marketing Association in September 2005 for comment. Comments and suggestions received via this process were reviewed and considered for inclusion.

Further comment and input is welcomed.

This document will be formally reviewed by a Marketing Association working party in one year (November 2006), and then every three years after that.

In addition, the Guiding Principles may be amended between reviews if necessary.

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APPENDIX 1

Defining the Role of Sender and the Fax Broadcast Parties

