

Information Commissioner's Office

Consultation:

Direct Marketing Code

Start date: 8 January 2020

End date: 4 March 2020

Introduction

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

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

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

You can email your response to directmarketingcode@ico.org.uk

Or print and post to:

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

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

Privacy statement

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

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

Q1 Is the draft code clear and easy to understand?

Yes

No

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

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

Yes

No

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

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

Yes

No

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

Generally yes, but it would be useful to have guidance on direct marketing in the business to business, rather than business to consumer context.

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

Yes

No

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

- The Code is very business-to-consumer (B2C) focused. It would be useful to see more business-to-business (B2B) examples in the Code.
- At page 81 the Code provides an example which begins to helpfully explain a common networking event scenario and the collection of business cards. However, the example does not demonstrate how best to meet transparency obligations in this scenario. This is a common difficulty for organisations in this position, and unfortunately this example is missing guidance at this crucial point. Therefore, it would be beneficial if the Code provided guidance on how it envisages the collection of business cards at a networking event (to be used for e-marketing purposes) can occur in a GDPR compliant way with an emphasis on how to practically meet the GDPR transparency obligation.

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

Yes

No

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

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

Yes

No

If yes, please provide your direct marketing examples :

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

- Tracking pixels are mentioned at page 87 of the Code. It would be helpful if the ICO could provide examples of how it would envisage the lawful collection of consent for the use of tracking pixels for direct e-marketing purposes.
- If consent is required for e-marketing, profiling, pixels and cookies, does this mean that the collection of consent should be separated for each? If so, could the ICO provide an example of good industry practice of what this should look like – including in the B2B context. The principle of consent is very clearly explained, but crucially it would be useful if the Code gave practical examples of how the ICO would expect organisations to collect consent for all of these marketing activities.
- Page 4 of the Code discusses carrying out 'appropriate due diligence' when using enrichment services. Could the ICO provide examples of what appropriate due diligence could look like or include. It is clear that this could vary on a case by case basis, but an illustrative list of examples would be very useful.

About you

Q8 Are you answering as:

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

Please specify the name of your organisation:

Ernst & Young LLP

If other please specify:

Q9 How did you find out about this survey?

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

If other please specify:

Thank you for taking the time to complete the survey