

Information for members

Guidance Note	General
Date	11 January 2010

Marketing activities of real estate agents are subject to the provisions of the *Do Not Call Register Act 2006* and the *Spam Act 2003*.

In November 2008, the Australian Communications and Media Authority (the ACMA) commenced an education campaign aimed at raising the real estate industry's awareness of, and compliance with, the *Spam Act 2003* (Spam Act) and the *Do Not Call Register Act 2006* (DNCR Act).

The ACMA initiated the education campaign in response to the increasing number of consumer complaints about telephone, SMS, and email marketing by real estate agents.

It has become apparent during this campaign that many real estate agents are unaware that much of their marketing activity may be subject to the provisions of either or both Acts, see link below.

Spam Act regulates the sending of commercial electronic messages (CEMs) and prohibits the sending of these messages except in certain limited circumstances.

Three key conditions that govern the sending of all CEMs:

- Consent
- Identify
- Unsubscribe.

The DNCR Act prohibits a person from making, or causing unsolicited telemarketing calls to be made to a number on the Register, unless consent has been obtained.

Examples of telemarketing calls:

- A call to offer a market appraisal
- A call informing a consumer about a property listed or sold
- A call to solicit a listing of a property
- A follow up call to a person after they have viewed or inspected a property, either by appointment or at an open inspection.

There are two forms of consent: **express** and **inferred** download fact sheets <http://www.acma.gov.au/WEB/STANDARD..PC/pc=pc_311861 >

To increase awareness and understanding within the real estate sector ACMA maintains detailed information regarding your obligations under the DNCR Act and the Spam Act, together with a series of frequently asked questions and fact sheets. Agents are encouraged to familiarise themselves with the ACMA website and the resources available.

For further information contact Silvana Ferraro, Agency Compliance and Risk Management Services at EAC on 1300 137 161.