



Australian Government
Department of Health

Australian Government
Hearing Services Program
Office of Hearing Services

Key Messages

Message One

Marketing using personal information collected from people must have their consent to use it in this manner.

Message Two

Direct marketing can only be sent to people who have agreed to receive it.

Message Three

Be sure of your legal obligations when undertaking marketing campaigns.

For further information
Visit our website at
www.hearingservices.gov.au

or email us at
hearing@health.gov.au

Phone: 1800 500 726

Contracted Service Provider Notice

Direct Marketing Campaigns

(CSPN – 2015/27)

Dear Service Providers

A number of complaints and queries have been recently received about direct marketing campaigns by Contracted Service Providers (providers).

This notice is to clarify the current position of the Office, noting that CSPN 2014/05 made previous references to the use of mailing lists by providers.

Providers are required to comply with the *Privacy Act 1988* and, in particular, with the Australian Privacy Principles. Principle 7 is specifically about direct marketing and prohibits the use of personal information unless certain requirements are met, including that an organisation either using or disclosing personal information must have collected that information from the individual, that the individual must reasonably have expected use or disclosure of that information, and that there must be a simple way for individuals to opt out of further contact.

Consistent with Principle 7, providers must only market services to clients and former clients who have agreed to receive marketing information, must include information on 'opting out' in all marketing communications (including telemarketing) and should cease contacting individuals who have asked to be excluded from marketing activities. Providers may wish to remind transferring clients of their right to opt out of marketing activities conducted by their previous provider by contacting that provider and confirming they want their contact details removed from the mailing list.

Please note that matters regarding the *Privacy Act 1988* fall outside the remit of this Office. Any queries, clarifications or complaints that you or your clients may have should be directed to the office of the Australian Information Commissioner at enquiries@oaic.gov.au.

Providers are also required to comply with the *Competition and Consumer Act 2010* and, in particular with the Australian

Consumer Law (ACL), which is a schedule to the Act. The ACL makes it illegal to engage in physical force, coercion and undue harassment (repetitive, unnecessary or excessive contact or communication to the point where a person feels intimidated or demoralised). The legislation also makes it illegal for businesses to make statements that are incorrect or misleading, for them to engage in bait advertising (as described in ACL), for them to engage in various practices in relation to pricing, and for rebates/gifts/prizes to be offered but not supplied. While the offering of gifts and prizes is not illegal, any offer must be truthful, and the terms and conditions of the offer must be detailed in the communication.

For further information regarding ACL visit the [ACCC website](#) or telephone the ACCC small business help line on 1300 302 021.

Providers are advised to familiarise themselves with their marketing obligations under legislation and seek independent legal advice if they have queries about the operation of legislation. This notice is an overview of obligations and is not legal advice.

Yours sincerely

(signed)

Tracey Duffy
National Manager
Office of Hearing Services
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