

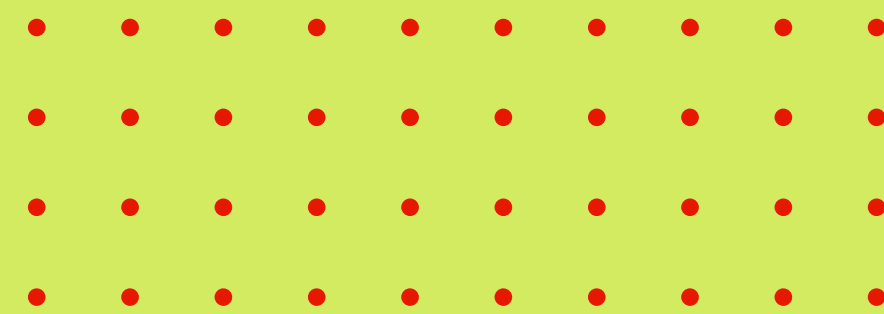


MARKETING COMPLIANCE

In Plain English...

ma.
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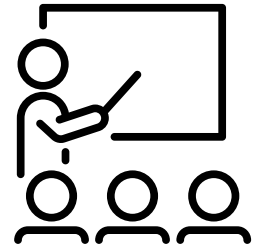


KIA ORA

I'm Keith Norris, Compliance Consultant to the
Marketing Association

ma.
Marketing Association

RULES OF ENGAGEMENT...



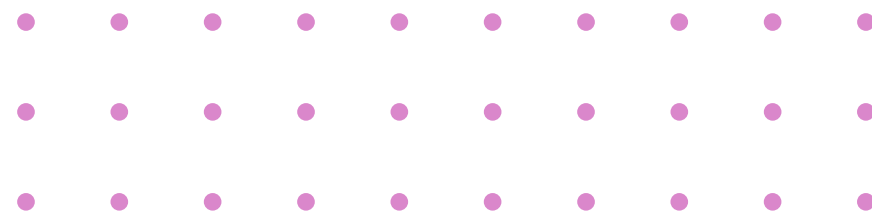
Not a lecture



Ask questions

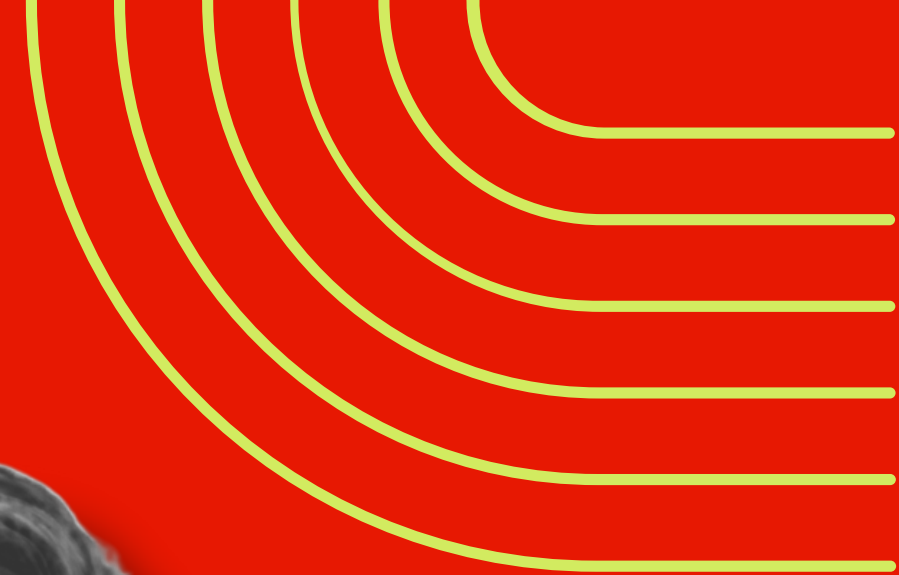
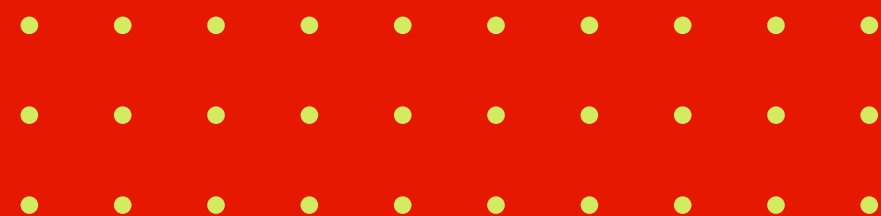


Challenge answers





LET'S SEE WHAT CAN
HAPPEN IF YOU GET IT
WRONG.....





COMMERCE COMMISSION

NZ Trustee Association Charitable Trust

Formal Warning in 2018
– sending invoices for unsolicited services



CHARITIES REGULATION BOARD

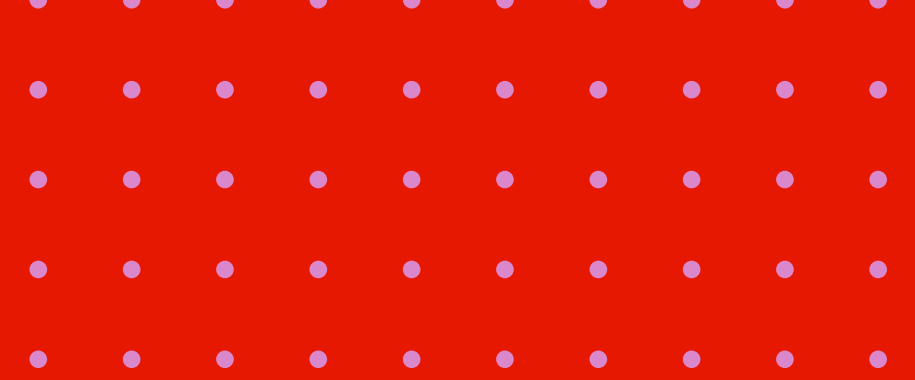


De-registered Family First in 2022

Family First's advocacy was not charitable because it was not fair, balanced and respectful.

De-registered NZ Edutech Trust in 2024

Significantly and persistently failed to meet its obligations under the Act by not meeting the annual reporting obligations.



LET'S TALK ABOUT PRIVACY....!

PRIVACY ACT 2020



THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.

01. Purpose must be lawful and relevant
02. Collection must be authorized or publicly available
03. Inform people you are collecting their details, what it will be used for, etc.

THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.

04. Collect fairly and do not use intrusive methods (**CHILDREN!**)

05. Protect information against loss, misuse, and unauthorized access

06. Individuals must be given access to their personal information

THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.

- 07. People have the right to request correction
- 08. Information must be accurate and up to date
- 09. Only keep details as long as you need them

THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.

- 10. Use information only for the stated purpose (P.3)
- 11. Only disclose or share personal details if authorized
- 12. Only share data with countries who have similar Privacy Law
- 13. Do not use a unique identifier - unless necessary!

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You must have a privacy officer!

THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.



PRINCIPLE 3:

If you forget all else...

REMEMBER THIS!!!

THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.

PRINCIPLE 3:

- That you are collecting their information
- What you will use it for
- Who will use it
- The contact details of your organisation
- How they can access the information and correct it



REMEMBER THIS!!!

Whenever you collect personal information, you must inform people:

THE PRIVACY ACT 2020: 13 PRINCIPLES

For the collection, storage, and use of personal data.

PRINCIPLE 3:

Q Best way to comply? 

A privacy box, or a link to your Privacy Policy
wherever you collect personal information

Be sure to offer an opt-out option!

PRIVACY...

Be aware – May 2026 3rd party data collection

- Amendment Bill – Must notify people about collection of their personal information



37,722

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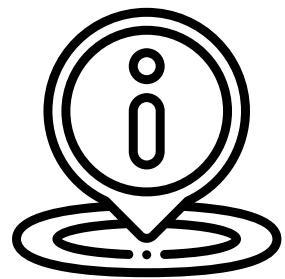
37,722

DIED IN NZ LAST YEAR. HOW MANY ARE
STILL ON YOUR DATABASE?

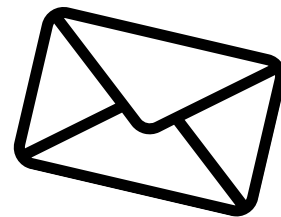
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NAME SUPPRESSION SERVICE FOR UNSOLICITED CONTACTS

DO NOT MAIL, DO NOT CALL, & DEATH LISTS



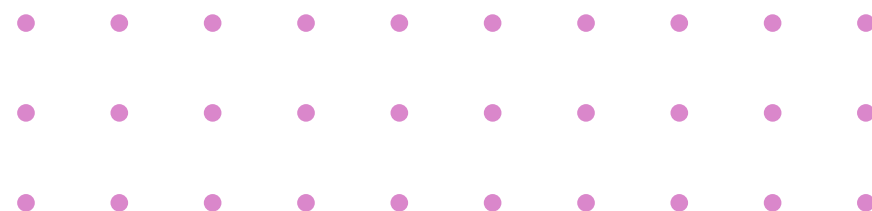
Deaths
information:
110,000+



Mail:
120,000+



Phone:
180,000+



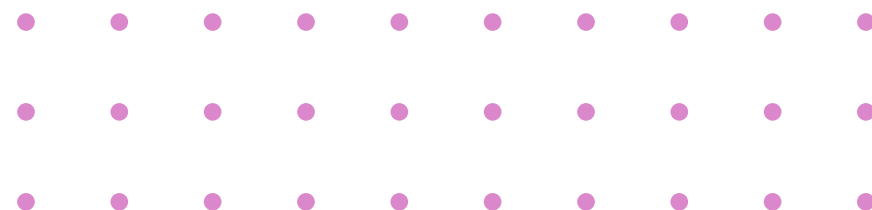
NAME SUPPRESSION SERVICE FOR UNSOLICITED CONTACTS

AVOID UNWANTED MISTAKES!

A simple data check can save your brand from a world of pain

The MA'S Name Suppression Services helps you to avoid:

- ✉ Sending mail to someone who's opted out (DNM)
- ☎ Calling a number that's on the Do Not Call list (DNC)
- 💔 Reaching out to someone who's recently passed away (DEATHS)

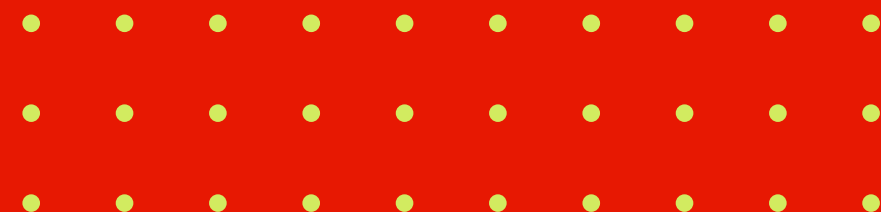


WHY DOES THIS MATTER?

You only get one shot to make a good impression.

One slip-up...And you're facing complaints, reputational damage, or worse.

With 120,000+postal opt-outs, 180,000+phone numbers, and monthly Deaths Information direct from the Registrar of Births, Deaths & Marriages.

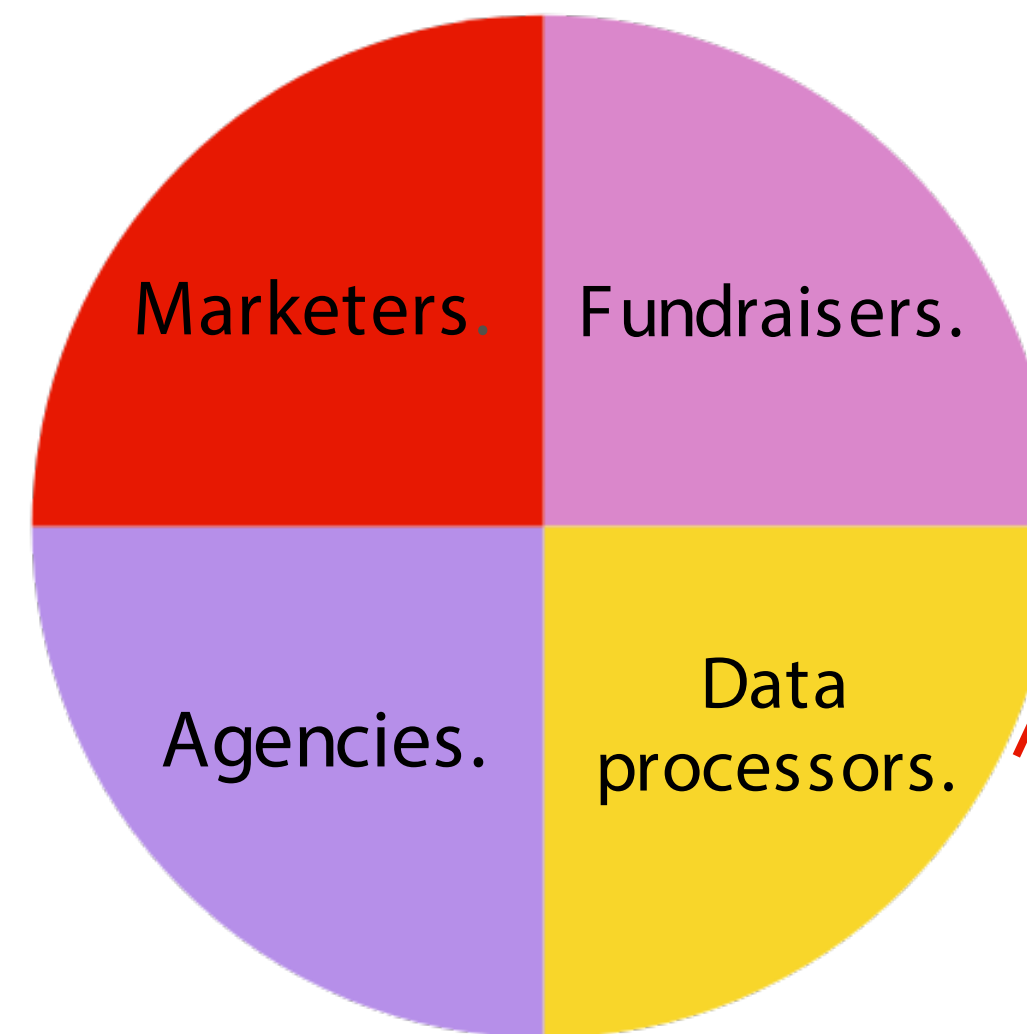


WHAT ARE THE BENEFITS – WHO IS IT FOR?

- ✓ Respect your audience's wishes
- ✓ Avoid upsetting grieving families
- ✓ Stay compliant with best practice
- ✓ Protect your brand reputation
- ✓ Keep your lists clean and efficient

Make the ethical (and smart) choice for your brand.
Suppress the names—keep the trust!

WHO IS IT FOR?



Anyone who sends out campaigns and wants to adhere to best practice marketing and do it the right way!

SUPPRESS THE NAMES – KEEP THE TRUST!

SPECIAL OFFER!!!

20% OFF

CLICK HERE

For any new NSS subscribers at the PFRA Symposium*

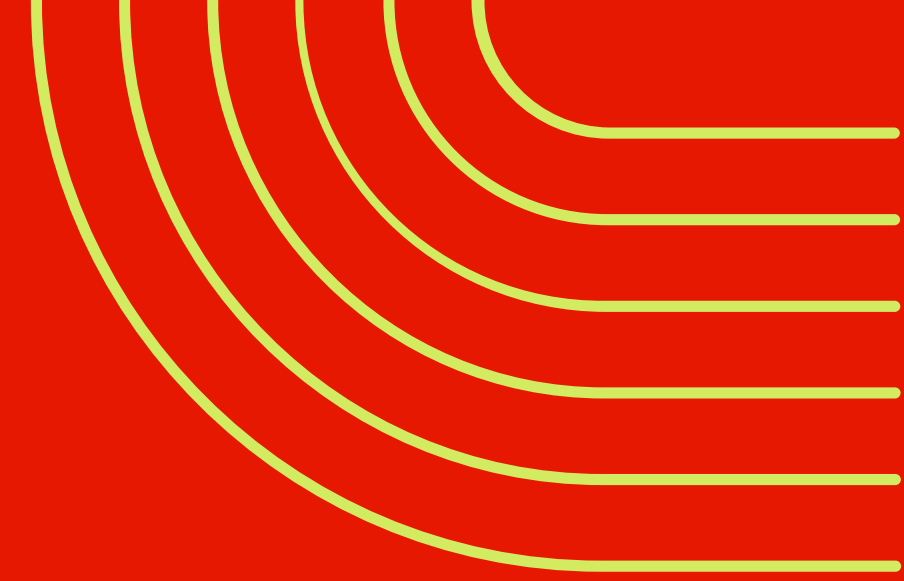
*Terms and Conditions Apply



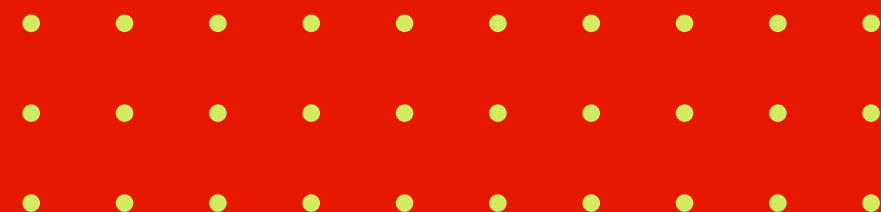
2025



OTHER PRIVACY ISSUES...



INTELLECTUAL PROPERTY



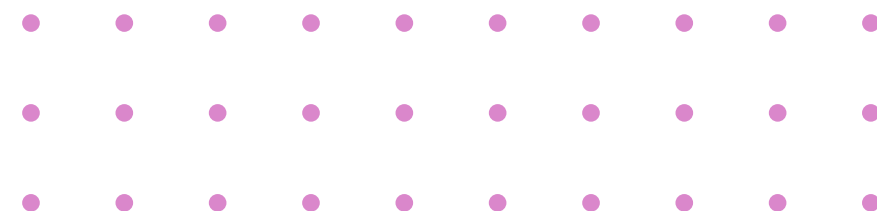
WHO OWNS THE RIGHTS?

INTELLECTUAL PROPERTY OR COPYRIGHT QUESTIONS
FREQUENTLY PUZZLE MARKETERS AND ADVERTISERS.

MA members ask me questions like...

- We want to use a piece of music in an ad, at a promotion or conference- can we?

Yes...apply to Music NZ for a music license!



WHO OWNS THE RIGHTS?

INTELLECTUAL PROPERTY OR COPYRIGHT QUESTIONS
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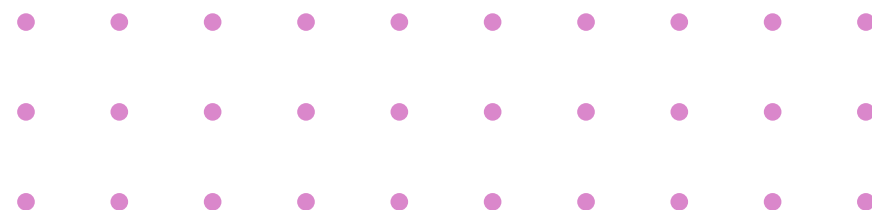
MA members ask me questions like...

- We want to use a piece of music in an ad, at a promotion or conference- can we?

Yes...apply to Music NZ for a music license!

- We want to use a crowd shot in our latest advertising- is this allowed?

Yes... But you'll need permission if you use an individual!

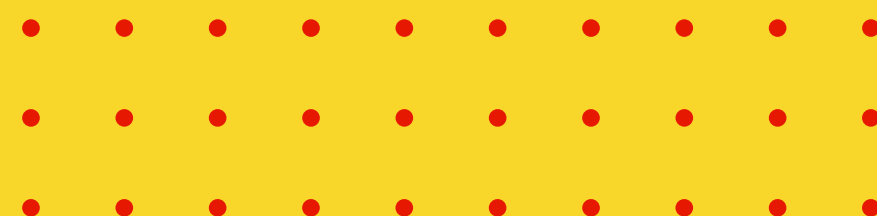


WHAT IS INTELLECTUAL PROPERTY?

INTELLECTUAL PROPERTY REFERS TO NEW OR ORIGINAL INNOVATIONS AND CREATIONS OF THE MIND, SUCH AS:

- Literary or artistic works
- Films, music, images
- Performances or performing arts
- Inventions
- Industrial designs or brand and product logos

*** YOU NEED PERMISSION!***





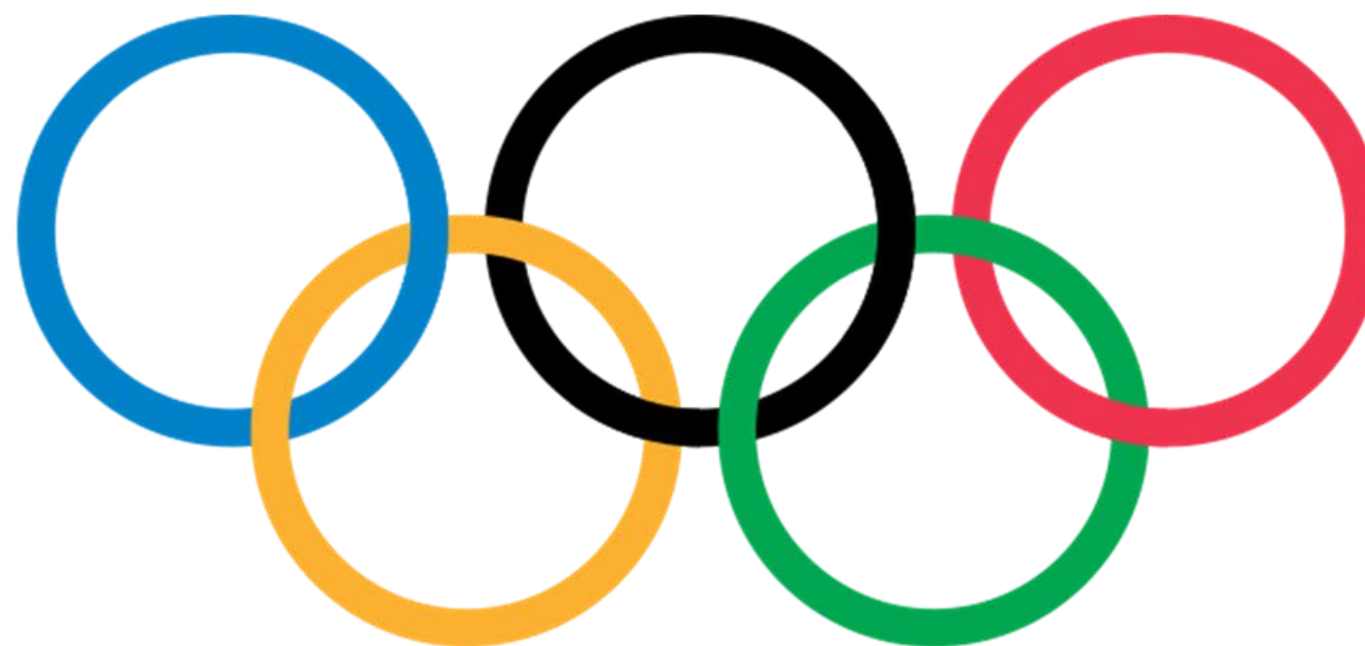
IF THAT'S INTELLECTUAL PROPERTY... THEN WHAT'S COPYRIGHT?

- Copyright refers to the exclusive rights given to owners of original works such as literature, artistic works, films, and sound recordings.
- In New Zealand, copyright is an automatic right that takes effect as soon as an original work is created, published, or performed.

BRAND LOGOS

- Logos are not necessarily copyrighted, they are trademarked. In NZ the trademark lasts 10 years.
- An organisation in NZ usually still has legal rights to their logo even if it's not trademarked.





ANZAC

Section 17 of the Flags, Emblems, and Names Protection Act 1981 prohibits the use of the word “ANZAC” in trade or business.

Fine \$50,000 !!



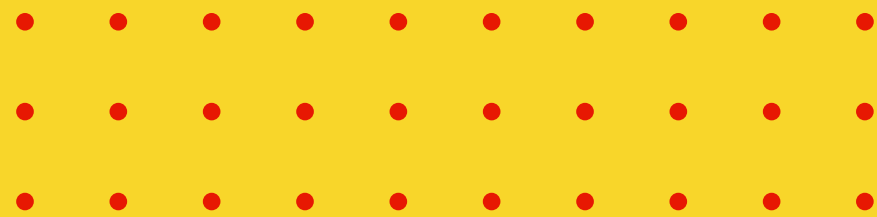
BE SENSITIVE TO...

Matariki

Diwali

Yom Kippur

Etc.





DIGITAL

A REMINDER OF THE PRIVACY ISSUES
IN DIGITAL MARKETING



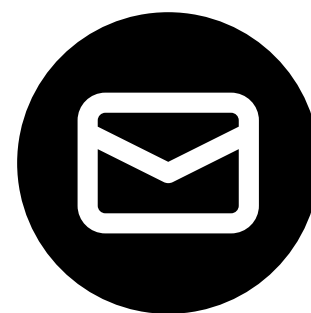
DIGITAL

Unsolicited Electronic Messages Act 2007

Covers unsolicited (commercial) electronic messages

DIGITAL

What media is covered?



Email



SMS



TXT



Fax

DIGITAL

You must have consent to send an unsolicited commercial message.

AGREE



DIGITAL

The Unsolicited Electronic Messages Act defines consent in 3 flavours!

- Express (Direct from person)
- Inferred (Previous activity)
- Deemed (Contact details are publicly available)

DIGITAL

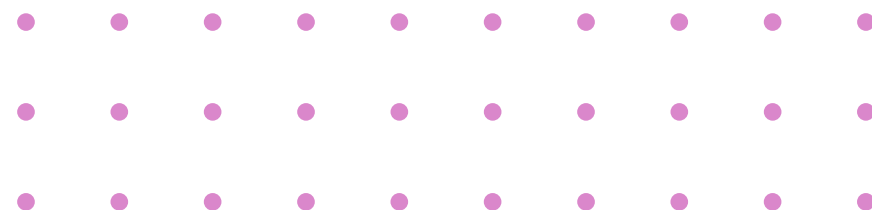
Commercial messages must contain a functional unsubscribe mechanism via the medium in which you contacted the individual.

Unsubscribe requests must be actioned in 5 working days at no cost to the individual

MARKETING LEGISLATION

LET'S HAVE A QUICK LOOK AT SOME OTHER LAWS WHICH AFFECT MARKETING COMMUNICATIONS:

- Charities Act 2005
- Commerce Act (1986)
- Fair Trading Act (1986)
- Consumer Guarantees Act (1993)
- Gambling Act (2003)



CHARITIES ACT 2005

(UPDATED 2023)

Defines Charitable purposes:

Relieving poverty, Advancing education, Advancing religion, and Other purposes beneficial to the community.

The benefits of a charity cannot be for the private profit of individuals

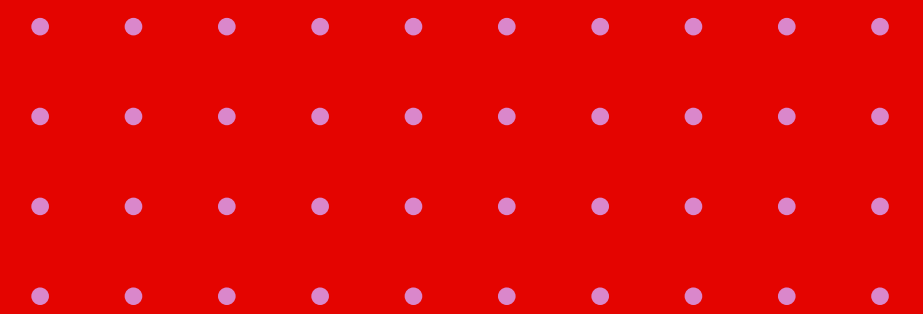
Requires registration of:

Societies, institutions, and trustees of trusts as charitable entities.

Registration is voluntary but offers tax exemptions under the Income Tax Act 2007

Obligations of Registered Charities:

Registered charities must submit annual returns to Charities Services



CHARITIES AMENDMENT ACT 2023

Now need a three-year governance review

Update your charity's officers regarding their role and duties

'Officers' must be 18+, cannot be bankrupt or have served prison sentence or disqualified as trustees and are listed on the register

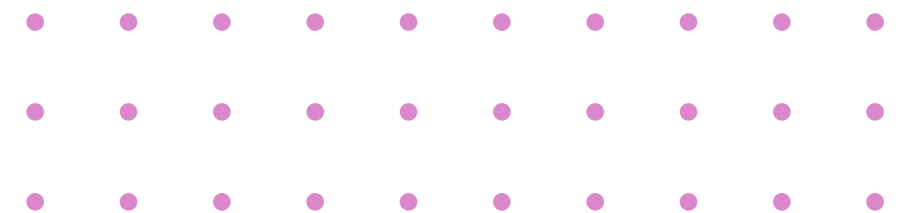
Your fundraisers must provide your charity's registration number upon request

Small tier 4 charities have easier reporting standards



FAIR TRADING ACT (1986)

- Prohibits misleading or deceptive advertising
- Outlaws unfair trade practices
- Claims made on packaging or advertising must be 'sustainable' - you must have clear, authentic evidence to support claims
- Doesn't cover private purchases (e.g., TradeMe)



CAN YOU PROVE IT? VIDEO BY COMMERCE COMMISSION



FUNDRAISING PROMOTIONS

- Does your promotion have a **cost to enter (might be a donation) with a random chance of winning a prize?**
- Then it's covered by the **Gambling Act**, which also sets rules for electronic promotions and raffles.



SALES PROMOTIONS CAN BE CLASSSED AS GAMBLING

It's gambling if:

- You pay to directly or indirectly enter... AND
- There's an element of chance... AND
- There are prizes.

It's NOT gambling if:

- Activity is entirely skill-based... OR
- It's free to enter... OR
- There are no prizes

FUNDRAISING BY RAFFLE OR LOTTERY

Must comply with Gambling Act 2003

Class 1:

Limit of \$500 on total turnover and on the total value of the prizes. A society may not conduct more than one session per day. No licence required.

Class 2:

Total gambling turnover per session up to \$25,000 and the total value of prizes per session up to \$5,000. No licence required

Class 3:

Total value of prizes for a session is more than \$5,000. Class 3 gambling requires a licence

WHAT YOU NEED TO KNOW WHEN YOU ARE RUNNING A RAFFLE

- Let everyone participating know the rules and requirements
- Make it clear when and where the draw will take place
- Ensure all tickets are individually numbered to identify and contact the winner
- Don't sell tickets online unless you are a society and have a Class 3 licence

If your raffle has prizes valued above \$500 only a society can run it and report to DIA with audit and prize statement



LET'S RUN A LOTTERY



Purchase a ticket to
support a charity



Go in a draw to
win a holiday.



Winner gets a
week in Hawaii.



Next 20 tickets drawn
win a magnum of Moët
champagne.

Gambling



or not?

LET'S RUN A LOTTERY

YES... It IS gambling!

You pay to directly or indirectly enter... AND

There's an element of chance... AND

There are prizes.

What about the consolation
prize, a magnum of Moet
champagne?



PROHIBITED PRIZES

For promotions which fall under the Gambling Act

- Firearms, explosives
- Liquor
- Tobacco
- Māori Artifacts
- Sexual Services

OR

- Vouchers for the above!



SALE AND SUPPLY OF ALCOHOL DEC 20 13

Clause 237- Irresponsible Promotion of Alcoho

It is an offence to promote or advertise free alcohol as a prize or reward other than for sampling or promotion in licensed premises.

Fine \$10,000



POP QUIZ!





QUESTION 1.

You must be able to substantiate any claim you make in your fundraising collateral or promotional material.



ANSWER:

Make sure any claim you make about your charity has been previously verified by credible source.

TRUE



QUESTION 2.

You can run a promotion or competition online as long as you do not offer a prohibited prize.

ANSWER:

But remember that if it comes under the Gambling Act the only competition you can run on the Internet is a lottery and prohibited prizes include alcohol, firearms, and sex!

TRUE





QUESTION 3.

The creator/author of commercial creative material (e.g., magazine ad, radio jingle) owns the copyright.

ANSWER:

Generally, the author of a work is the first owner of copyright. However, that may not be so when an employee or paid contractor creates an original work



Sometimes



QUESTION 4.

The Privacy Act does not apply to people at their business address.

ANSWER:

The Privacy Act does not apply to a business or organisation. However, it does apply to personal information about identifiable employees.





QUESTION 5.

It is illegal to send unsolicited commercial emails and texts unless you have prior consent.

ANSWER:

You must have the recipient's consent to send unsolicited electronic messages, unless their contact details are publicly available and not restricted from such use.

True





QUESTION 6.

Every electronic message must provide a functional unsubscribe facility.



ANSWER:

Only unsolicited commercial or promotional messages are required to have an unsubscribe mechanism. Transactional emails are excluded from the Anti-spam (UEM) Act.

False



QUESTION 7.

You must have consent from an individual before you mail them unsolicited marketing material.

ANSWER:

Although it is best practise to have consent before you send unsolicited marketing mail it is not required in law. Don't forget Principle 3 of the Privacy Act requires that you tell people how you will use their personal information **at the time you collect it.**

False



THANK YOU!

You have our
permission!

Do you have any question?

Marketing Association
<https://marketing.org.nz/>

Marketing Association Member Advisory Service

Email contactus@marketing.org.nz or keith@marketing.org.nz or
tricia@marketing.org.nz

ma.
Marketing Association

