

Data Publishers Association

Code of Professional Practice

1. Introduction

This Code sets out standards of good practice for the directory and data publishing industry and is intended to assure all who purchase directories/data or obtain other services from Full/Overseas members of the DPA that they are doing business with reputable organisations. The Code does not, in all cases, indicate in precise terms particular action, which must, or must not, be taken. It sets out principles which members are required to apply, with good sense and in the spirit of the Code. The term 'data products' covers directories, databases and other forms of online data.

Compliance with the Code is a condition of membership of the Association.

2. Statement of general requirements

Members shall:

- conduct their business lawfully, comply with all applicable legislation and judicial decisions, and trade fairly, responsibly and with integrity
- not knowingly misrepresent facts to a customer
- provide adequate training for members of their staff, bringing this Code and the principles contained in it to their attention and requiring them to act in accordance with them
- where applicable, follow any guidance rules issued by the DPA

3. Definition of a data product

Full members of the Association must be engaged in data publishing, which may also include directories and database publishing. Data products, whatever their title or designation, are reference works arranged in a systematic manner, consisting of various kinds of factual information, possibly, but not necessarily, including names and addresses of individuals, companies or institutions.

These may be published or communicated in printed and/or electronic form. As well as being sources of information, directories can be advertising media in whole or in part.

4. Relationship between title and content

The title and/or subtitle of a directory, and of any section of a directory, must be sufficiently explicit, or established, to prevent any misunderstanding of the contents and scope of such a publication. It is the prime responsibility of the publisher to take all reasonable steps to ensure that the information contained within the directory is of a standard regarded by the industry as acceptable, is accurate, relevant and current and satisfies all criteria implicit in the directory's title and date of publication.

5. Sound editorial quality

Each successive edition must be checked for relevance and accuracy and the existing information brought up-to-date as far as is reasonably possible.

6. Protection of goodwill

Members shall not unlawfully appropriate in connection with their data products the reputation or goodwill of another member or any other publisher. Accordingly, members shall respect the registered or unregistered trademarks of third parties in the titles, logos, design and representation, which such third parties use in their data products, and in associated questionnaires, sales and promotional literature.

Members shall not or use take cuttings, whether of text, graphics or advertisements, from another publisher's data product for the purpose of soliciting paid or free insertions or advertisements in their own publication(s) if that publisher has sought to prevent the taking of any such cuttings by a notice to that effect in the publication in question.

7. Accreditation

- Every printed directory must show clearly, if relevant, the year of publication, the name and address of the publisher and, if relevant, the name(s) of the editor(s).
- The content of all online data products must be updated frequently.

8. Copyright

Members shall not infringe the intellectual property rights, including Copyright and Database Right, of third parties in respect of any materials, textual or graphic reproduced in their publications, whether printed or electronic, or in any direct mail promotional materials which they may produce.

9. Best commercial practice

Members shall ensure that all advertising and promotional literature and commercial documentation, including invoices and other forms, are fair and reasonable, do not contain misleading information and comply with all relevant legislation and advertising codes.

Order forms, where required by legislation, must be used by the publisher, and signed by the customer, for the sale of paid insertions, and on such forms, the rates or prices payable and any other conditions must be clearly indicated. In addition, such order forms and sales brochures must state: the title of the publication, the edition year to which the order relates, the full name and address of the publisher, and the minimum number of directories available for sale or free distribution in the case of advertising-related literature.

When a certain free distribution of a printed directory has been promised in the rate card, prospectus, order form, or other form of sales literature, the publisher must ensure that the promised distribution takes place in full. This same principle shall apply to electronic and online data products.

When orders are taken by representatives, the customer must receive a copy of the order form and/or acknowledgement of the order.

If an order form is submitted in conjunction with a questionnaire, the two documents need not be separate but must be clearly identifiable, in order that there may be no risk of one being signed in mistake for the other; the words 'order form' must be clearly indicated.

Members will not demand payment for a directory entry from a person who has not signed an order agreeing to the charge, nor shall any member demand payment for any goods, which the member knows to be unsolicited goods. All transactions must be in compliance with the Unsolicited Goods and Services Act 1971 and the Unsolicited Goods and Services (Invoices, etc.) Regulations 1975 (S.I. No.732) and The Unsolicited Goods and Services Act 1971 (Electronic Communications) Order 2001 (S.I 2001 No.2778)

10. Data protection and direct marketing

Members shall comply at all times with the Data Protection Act 1984 (and amendment to, or replacement of, that Act), including its data protection principles, when obtaining and processing customers' data.

Data publishers concerned with the compilation, processing and management of personal data, which could be used as consumer mailing lists should ensure compliance with the Committee on Advertising Practice's Rules for Direct Marketing.

11. Code of Advertising Practice

Notwithstanding the fact that primary responsibility for observance of the British Code of Advertising Practice falls upon the advertiser, members of the Association are expected to be aware of the provisions of the Code and to act accordingly if presented with advertisements for publication in their printed directories or data products, which may contravene the Code.

12. Conciliation, arbitration and non-compliance with the Code

If a member's customer makes a complaint to the Association about a member, or if a member makes a complaint to the Association about another member, the Association shall refer the complaint to the chief executive of the member.

If the complaint is not then resolved to the complainant's satisfaction the Association may, at its discretion, attempt to conciliate between the complainant and the member.

When a complaint cannot be resolved by conciliation, or if the Association shall decline to act as a conciliator, then if the complainant is a customer of a member the complainant shall have the right to seek resolution of the complaint by binding arbitration by an arbitrator appointed on the complainant's request by the President of the Chartered Institute of Arbitrators. In the case of a complaint made by one member about another member, referral of the complaint for resolution by arbitration shall require the agreement of both or all of the members concerned. The rules governing any such arbitration (including responsibility for the arbitrator's costs) shall be as determined by the arbitrator.

Nothing in this Code restricts, or is intended to restrict, the rights of a complainant to pursue remedies through the courts, except where the complainant seeks resolution of the complaint by binding arbitration.

Any instance of non-compliance with the Code shall be drawn to the attention of the member concerned by the Association. In the event of non-compliance, the Association shall take such action as it deems appropriate, including a warning or expulsion from membership of the member concerned. Before such action is taken, the member concerned shall be given an opportunity to present its version of events except where the gravity of the circumstances requires the Association to take immediate action against the member concerned. In the event that the member's conduct is the subject of conciliation or arbitration, the Association may delay taking any action until such procedures have been completed.