Public Fundraising Symposium

Getting it Right:
Regulation & Best Practice

Data Warranty
Marketing Association

PUBLIC FUNDRAISING REGULATORY ASSOCIATION

Tricia Pink & Debbie Curtz

Marketing Compliance

To help you stay on the right side of the law

Data Warranty Register | Privacy Act & Unsolicited Electronic Messages Act (UEM) Guidelines |

Name Suppression Service

Who is the MA?

The MA is New Zealand's exclusive marketing industry body, supporting organizations of all sizes to recognise marketing as a crucial driver of success. In an ever-changing business landscape, marketers must stay at the forefront. We assist our 7,500+ member businesses and professionals, connecting over 10,000 people weekly, by providing expert advice and fostering their development and voice.

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Welcome!

We are.....

Debbie Curtz & Tricia Pink

Membership & Partnership team at the MA

We are happy to help with any questions relating to the Marketing Association

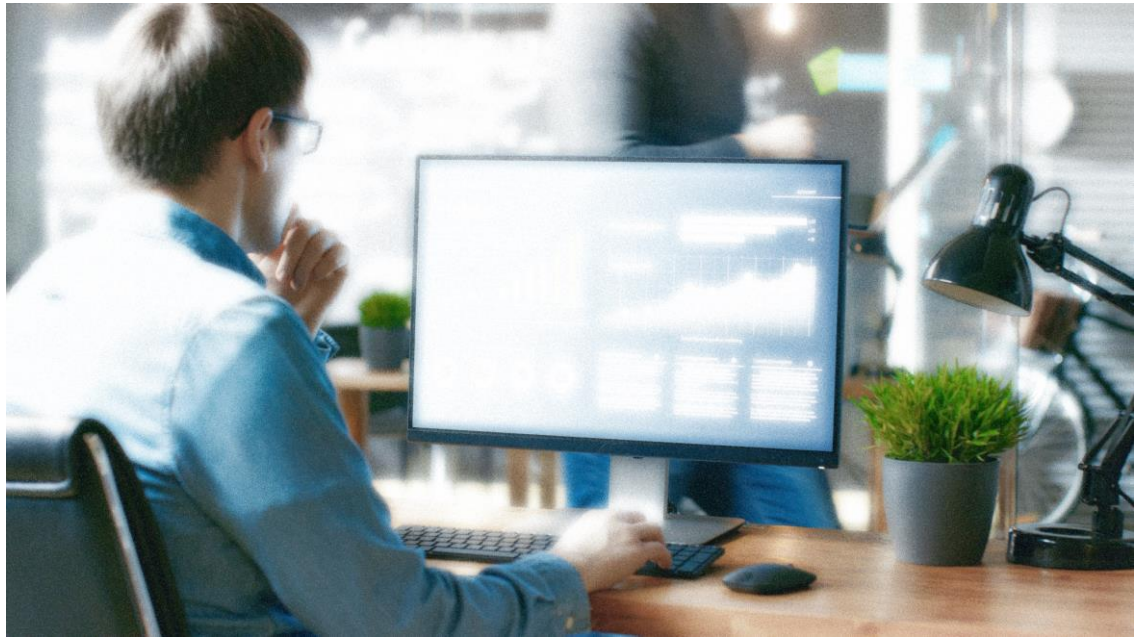
Find out more about membership here - https://marketing.org.nz/membership

What is the Data Warranty Register ?

The Data Warranty Register (DWR) is a self-regulatory system ensuring transparency in marketing data practices by New Zealand businesses.

It adheres to the guidelines of the New Zealand Privacy Act and serves as an effective identifier of trustworthy data owners, providers, and enhancers following best practice guidelines

You can find out more here:
https://marketing.org.nz/data-warranted-organisations



What are the goals of the DWR?

- The DWR aims to "future-proof" data collection, storage, and use, showcasing the effectiveness of self-regulation.
- This minimises the risk of restrictive laws that could impact businesses' ability to bring goods and services to the market.
- Customer and prospect data is a crucial asset for businesses, and with the rise of media channels, managing data professionally, legally, and ethically is paramount for maintaining trust and reputation.

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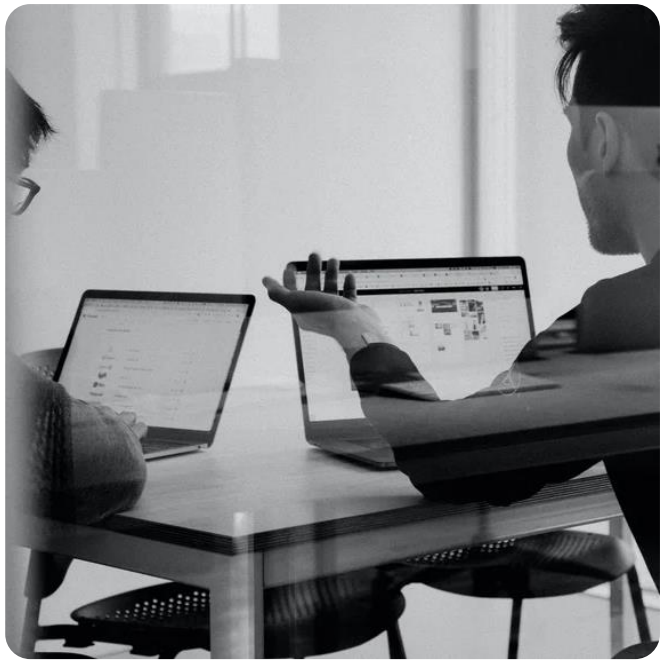

Why do we need a Data Warranty Register?

- With the proposed implementation of stringent data regulations internationally, it is critical for the growth and success of business in New Zealand that similar legislation is not regarded as being necessary here.

- The robustness of the DWR process, which includes compliance checks, is intended to demonstrate to the lawmakers that in the increasingly important business arena of data management, the industry is capable of upholding self-regulated best-practice standards, and thus protect the privacy of individual New Zealanders.

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Let's talk about... Privacy

PRIVACY ACT 2020

The Privacy Act 2020:

13 Principles

For the collection, storage and use of personal data

1. Purpose must be lawful and relevant
2. Collection must be authorised or publicly available
3. Inform people you are collecting their details, what it will be used for etc.
4. Collect fairly and do not use intrusive methods
5. Protect information against loss, misuse and unauthorized access
6. Individuals must be given access to their personal information

The Privacy Act 2020:

13 Principles

For the collection, storage and use of personal data

7. People have the right to request correction
8. Information must be accurate and up to date
9. Only keep details as long as you need them
10. Use information only for the stated purpose (P.3)
11. Only disclose or share personal details if authorised
12. Only share data with countries who have similar Privacy law
13. Do not use a unique identifier – unless necessary!

*** You must have a Privacy Officer**

The Privacy Act 2020:

Principle 3 :

If you forget all else…

REMEMBER THIS!!!

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The Privacy Act 2020:

Principle 3 :

Whenever you collect personal information, you must inform people:

- 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

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The Privacy Act 2020:

Principle 3 :

Best way to comply?

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

And don’t forget to offer an Opt-out!

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Sample Privacy clause:

Your Privacy :

- The Marketing Association collects your details to keep you informed about marketing matters including training, education and current issues. Your details are stored securely at our National Office and can only be accessed by members of the Marketing Association.

- You are welcome to contact us at any time to access and update your personal information or to opt-out of receiving further communications from us.

  PO Box 137266, Parnell, Auckland, freephone 0800 347 328 or email **contactus@marketing.org.nz**

Data Owners

- If you are a data owner, you will be encouraged to register on the MA's DWR by completing a Data Declaration.
- You will also be required to carry out an annual self-audit and be subject to compliance checks (likely to be at least once every three years)
- AND subscribe to the relevant Name Suppression Service if you communicate with consumers who are not on your customer list.
- Alternatively, you should use a DWR-registered data bureau to cleanse/wash your data.

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Is Business-to-Business data covered by the DWR?

The Privacy Act refers to “identifiable individuals” so while businesses/organisations' are not covered by Act, the individuals who work for them are - so yes, B2B data is included.

Who does it apply to?

- Data providers/brokers and data enhancers, including organisation's who trade their own lists/data files.
- Data owners who maintain data files for their own purposes, and who wish to be recognised for their robust data processes.
- Even those who never trade their data files will be encouraged to have their processes warranted to demonstrate their commitment to best practice and to provide an additional level of assurance to their customers and prospective customers.
- Note: this includes owners of business-to-business lists that contain details of identifiable individuals.

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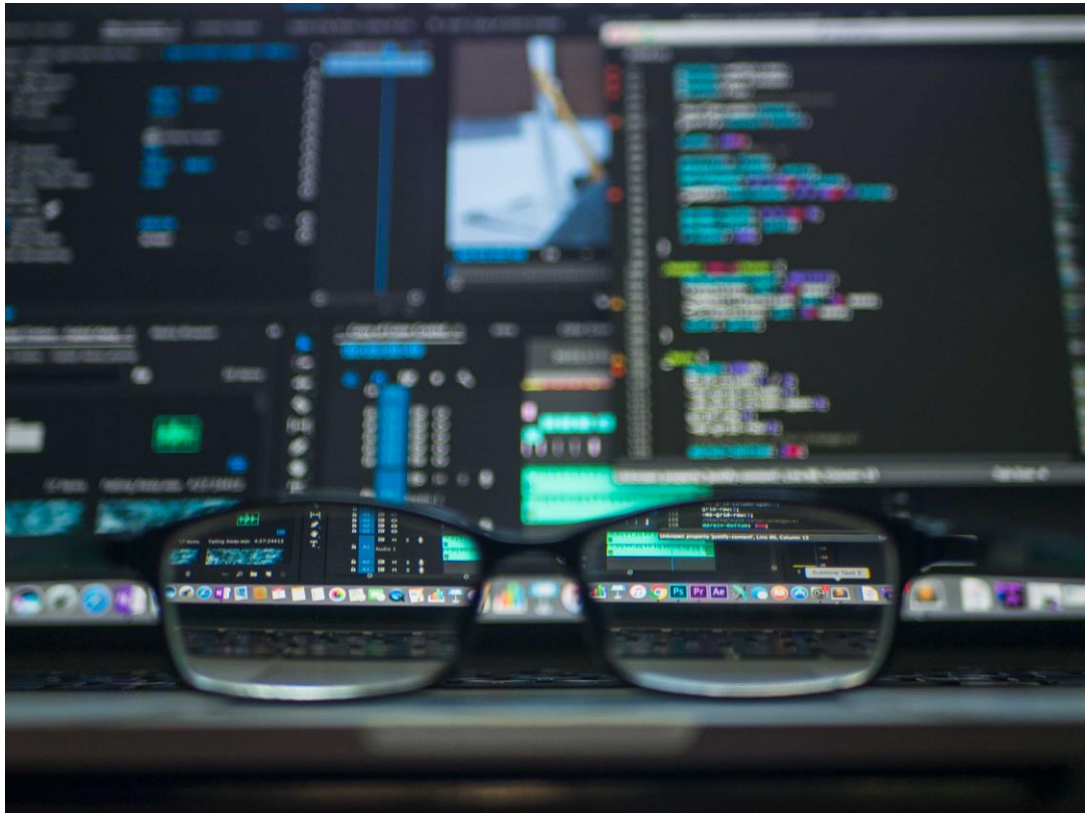
So, who should apply?

All businesses collecting, storing and using personal data for marketing purposes, whether B2C or B2B, are encouraged to apply for the Trustmark.

This includes:

- Organisation's who hold personal details about customers and prospects.
- Organisation's making their consumer database available for rent or sale.
- Data providers and data enrichment service providers trading in the New Zealand marketplace.
- Data provider members of the Marketing Association are required, as a condition of their membership, to become Data Warranted.



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What does the DWR audit cover?

- Compliance with MA Best Practice Guidelines
- Compliance with The Privacy Act 1993
- Compliance with The Unsolicited Electronic Messages Act 2007
- Sourcing of personal data
- Method of data collection
- Security procedures
- Storage of data
- The use of suppression lists (as and when applicable)
- Documentation procedures
- Record tracking
- Data transfer protocols
- Data sharing protocols
- Staff training
- Data disclosure
- Compliance with current postal addressing standards

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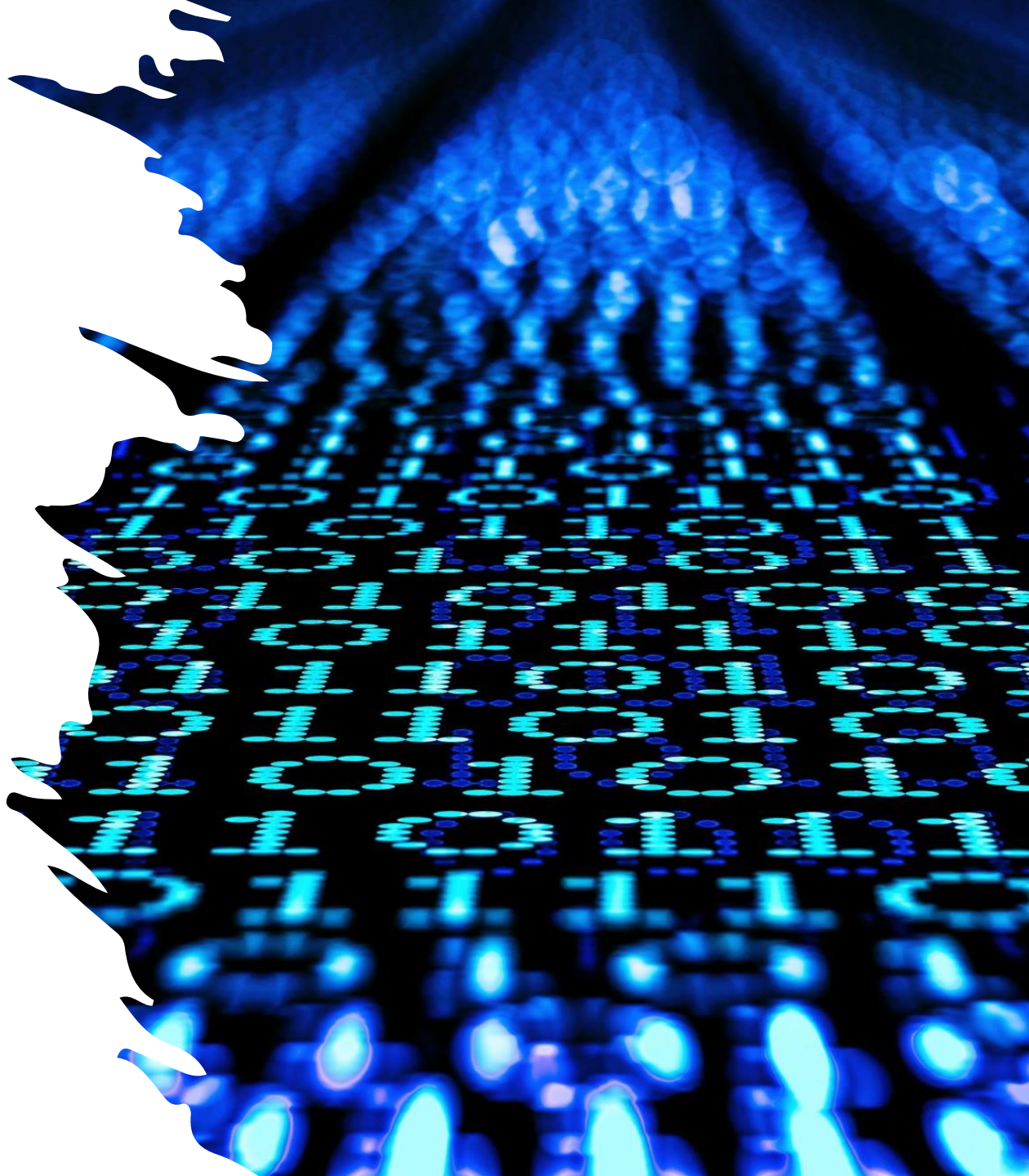
Do I need to be an NZ MA member to become warranted?

- MA members are encouraged to follow and abide by published best practice guidelines and codes of practice and therefore to have their data processes warranted.
- However, this service is not exclusive to MA members.
- Effective data management procedures and a commitment to self-regulated best practice is the best way of protecting the consumer and thereby avoid restrictive legislation.



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Exactly how will my data processes be warranted?

- The Data Declaration and compliance process has been designed to help all NZ businesses to operate in a compliant manner.
- Once the compliance check has been completed and any issues addressed, the DWR Trustmark will be granted.
- This will be renewed annually on payment of the relevant fee and submission of a completed “self-audit” document.
- The independent Compliance Consultant will help data owners/enhancers through the initial checking process.
- Upon receipt of the relevant annual fee, the DWR Trustmark will be granted.
- Data owners who wish to have their data collection, storage and management processes warranted will submit a completed Data Declaration to the MA.
- Our independent Compliance Consultant will contact the applicant to clarify points if necessary. On receipt of the relevant annual fee, the DWR Trustmark will be granted.

What does Data Warranted mean for businesses?

Organisation’s who are listed on the Marketing Association's Data Warranty Register have demonstrated that they:

- Collect personal information in a professional and responsible manner.
- Abide by the Privacy Act and follow Industry Best Practice.
- Have a designated Privacy Officer to care for customer data.
- Ensure that only authorised personnel can access personal data.
- Maintain all personal records in a password-protected system.
- Regularly train staff on Privacy procedures.
- Only transfer data via strict security links.
- Operate only under the terms of formal written contracts.
- Are required to undergo industry compliance checks

Is there a cost to be Data Warranted?

- Yes, because we need to cover the cost of administering the service and the compliance checking process.
- Costs have been kept to a minimum and will vary dependent upon the number of records held.
- Preferential rates available for Marketing Association members and New Zealand registered charities.

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How will I know what companies/organisations are Data Warranted and who's not?

- There is a list of all organisations who are data warranted and authorised to use the DWR Trustmark on the MA website.

- You can find out more details here:

- https://marketing.org.nz/data-warranty-register

Where do the Suppression files (Do Not Mail, Do Not Call, Deaths Information) fit in with DWR?

- Best practice requires that you make every effort to respect the express wish of those who've registered on the Do Not Mail and Do Not Call lists to not be contacted.
- This applies to all prospecting activity but not necessarily to an organisation's own customers.
- The Deaths Information file can only be used for suppression purposes and is able to be matched against data files containing details of people at their residential addresses, i.e. it does not contain businesses addresses.
- All warranted data providers are required to wash their residential data against the MA suppression files.

DATA WARRANTED

Where can we display the DWR Trustmark logo?

Once you've been granted the right to display the DATA WARRANTED logo (the DWR Trustmark), you'll be provided with two versions – one for print and one for digital media. We recommend that you display the logo where you capture person information, whether that's on a web page or printed material, and wherever you publish your Privacy Statement.

You can also make it available to your staff to include in their email signatures' if you wish.. Just make sure they know what it stands for and can answer questions about it. If you publish a staff newsletter, this would be a good way to let them know of your warranted status and explain what that means.

Find out more here - https://marketing.org.nz/data-warranted-organisations

Digital

A reminder of the privacy issues in Digital Marketing

Digital

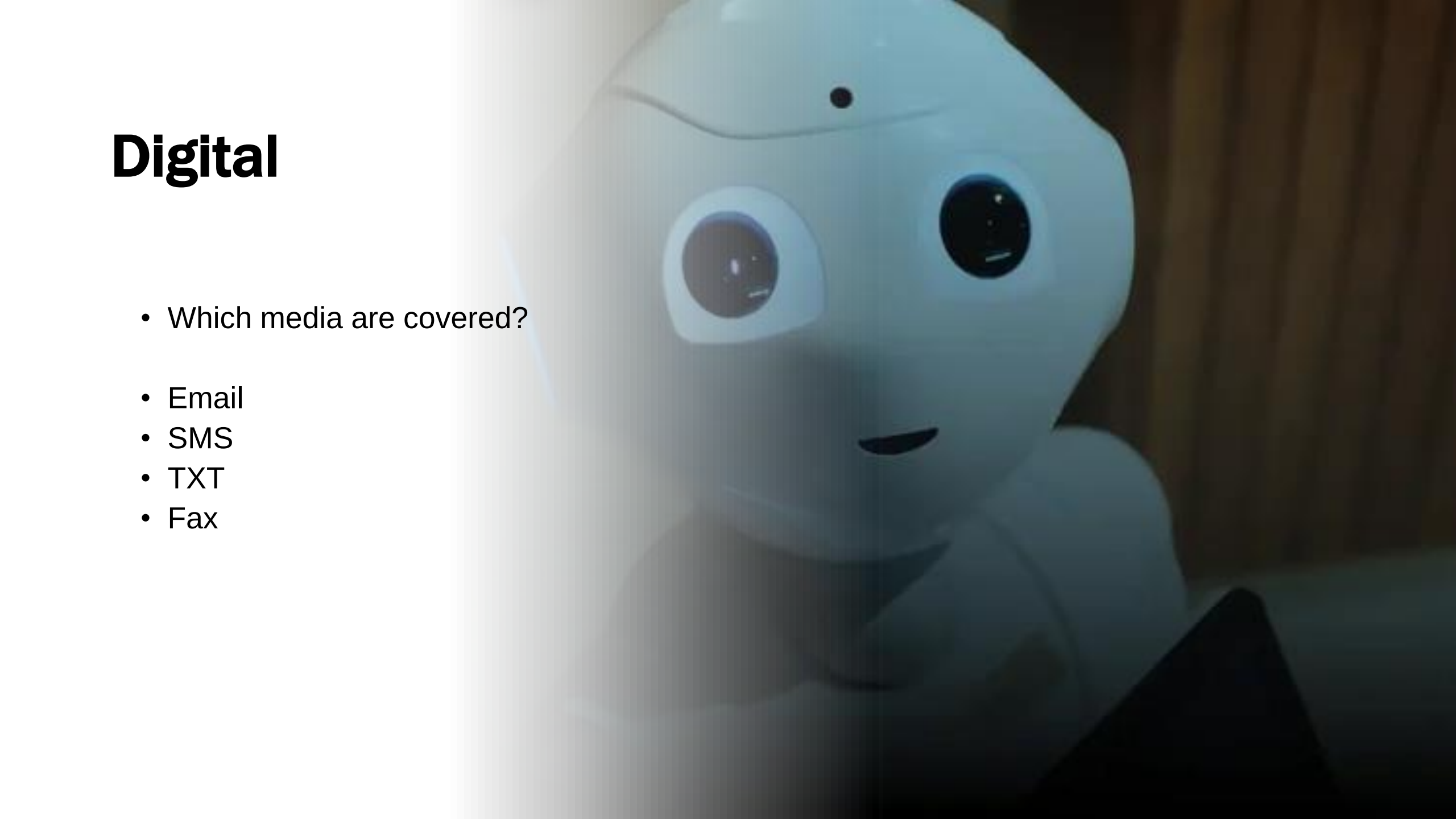
Unsolicited Electronic Messages Act 2007

- Covers unsolicited **(commercial)** electronic messages

Digital

- Which media are covered?

- Email
- SMS
- TXT
- Fax



Digital

You must have consent to send an unsolicited digital

commercial messages (text, email, SMS)

Digital

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

Best Practice Guidelines for Digital Marketing

The MA champions the adoption of industry-wide standards of best practice and ethical conduct regarding the use of email for marketing purposes.

We believe this will promote consumer confidence in eCommerce and ensure that proper account is taken of consumers' right to privacy.

This outlines guiding principles for digital marketing in New Zealand and is complementary to the **Unsolicited Electronic Messages Act 2007 (UEM)**.

By adopting these principles, marketers will be recognised as ethical digital marketers - in intent, in principle and in action.

Six Principles for Digital Marketing

The Marketing Association has designed 6 Guiding Principles for Digital Marketing to safeguard people from receiving unwanted, erroneously labelled, or intentionally deceptive communications.

In brief they are:

- Send only relevant offers to consenting recipients
- Include an unsubscribe function
- Tell the recipient who you are
- Apply the basic ”truth in advertising” doctrine
- Do not abuse permission
- Do not harvest email addresses

What is the Name Suppression Service ?

- **DO NOT MAIL, DO NOT CALL and DEATHS LISTS**

- For consumers at home addresses
- Covers Mail and Phone
- 120,000+ (mail)
- 180,000+ (phone)
- 300,000+ Deaths Information

NAME SUPPRESSION SERVICE

If you're a professional marketer who's committed to best practice, keep reading...

In many countries around the world, Governments operate compulsory suppression services which must be accessed before running outbound marketing campaigns by mail or phone. In New Zealand, this service is provided by the Marketing Association (MA).

Best Practice marketers around the world avoid upsetting consumers who do not wish to be contacted via unsolicited mail and phone communications. The MA Name Suppression lists contains contact details of over 150,00 consumers in the Do Not Mail (DNM), Do Not Call (DNC) data. Subscribers to the service can also access the official Deaths Information files provide by the Government Registrar. This file contains the details of every person who has died in the last 20 years.

Each list can be subscribed to and downloaded separately and are to be used solely for the purpose of suppressing names from outbound marketing communications.

By subscribing to our Name Suppression Services you will greatly reduce the risk of damaging your brand by contacting people who do not want to be contacted.

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***The MA offers a **30%** discount to all New Zealand registered Charities for Data Warranty Registration and Name Suppression Service subscription.

Find out more here - https://marketing.org.nz/name-suppression-service

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Let’s briefly touch on…

- **Sale and Promotions**
- **The Gambling Act**

Gambling Act Promotion/Competition Rules

- You cannot inflate the normal price of the product
- The rules and the dates of the competition must be clear at the point of sale
- Entry cost (e.g., txt) must be at participant's normal cost
- Promotions operated by internet, text or phone can only be run as a lottery

NB: On-line instant prize competitions can only be run if products are purchased instore.

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Prohibited Prizes

Promotions which fall under the Gambling Act

- Firearms, explosives
- **Liquor**
- Tobacco
- Maori artefacts
- Sexual services

Or

- Vouchers for the above!

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Sale & Supply of Alcohol Dec 2013

Clause 237: Irresponsible promotion of alcohol

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

The only exception – Loyalty Programme not specifically related to alcohol

Fine $10,000!!!

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Question 1.

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

Answer:

FALSE

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

Question 2.

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

Answer:

FALSE

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

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Question 3.

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

Answer:

TRUE!

If you wish to send unsolicited commercial messages via electronic means, you must have the consent of the recipient.

The only exception is that consent may be “deemed” to have been given if that person’s details are publicly available.

Even then you should make sure there is no statement precluding using their details to contact them.

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Question 4.

Every electronic message must provide a functional unsubscribe facility.

Answer:

FALSE! (Trick Question!)

Only unsolicited commercial or promotional messages are required to have an unsubscribe mechanism.

That facility must be free of charge and available via the same medium as the original message.

Transactional emails are excluded from the Anti-spam (UEM) Act.

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Question 5.

You can win a bottle of champagne in a prize draw.

Answer

FALSE!

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

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Two Important Resources for Marketers

- Marketing Association
- https://marketing.org.nz/

- **Keith Norris**
- Marketing Association
- Advisory Consultant

- Email:
- contactus@marketing.org.nz or keith@marketing.org.nz

- (You have our permission!)

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THANK YOU!

We are very happy to answer any questions.

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