

# **DROWNING IN CODES**

**An analysis of  
Codes of Conduct  
applying to  
online activity in Australia**

**Cyberspace Law and Policy Centre**

**UNSW Faculty of Law**

# **Drowning in Codes of Conduct**

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applying to online activity in Australia**

**Final Report**

**March 2012**

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This report has been completed by staff at the Cyberspace Law and Policy Centre at the University of NSW Faculty of Law. The Cyberspace Law and Policy Centre provides a public interest focus on legal and policy issues arising from digital transactions in online and networked environments, through research, training, education and advocacy.

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## **1. Executive Summary**

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### **1.1. Overview**

This Report examines 16 codes of conduct that are relevant to Australian consumers when they engage in online activity (13 active codes and 3 draft codes). It is the first report to analyse the numerous codes of conduct that have been developed in Australia to address online conduct. These codes, individually and together, offer online users the prospect of assistance dealing with unsatisfactory conduct by businesses and others, but whether they meet expectations has been unclear.

The Report compares each code against best practice guidance on the development and implementation of codes of conduct issued by Australian regulators. The report also examines the coverage of codes, through an analysis of the code coverage amongst the top 50 websites visited by Australian consumers, and the top 19 ISPs by Australian market share.

The report has identified 13 codes that are currently in force, and three significant draft codes. There may be other codes that have an occasional impact on online activities, and new codes have appeared during our research, but we believe that we have identified the most significant codes.

We use a fairly broad definition of codes of conduct – for example, the word “code” does not have to appear in the title. The report is trying to capture the number and nature of self-regulatory and co-regulatory instruments intended to cover online activity. The study’s scope is restricted to Australian codes of conduct, although several codes may have a small extra-territorial impact.

The report has been completed by staff at the Cyberspace Law and Policy Centre at the University of NSW. We are grateful for funding assistance provided by the auDA Foundation, assistance from our research interns, and editorial assistance and feedback provided by several industry, government and community stakeholders.

### **1.2. Completed Codes**

The report has identified 13 codes of conduct that are currently in force in Australia as of March 2012. Several of these codes are the subject of current reviews, and this is noted in the detailed analysis of each code.

1. **Telecommunications Consumer Protection Code**  
[http://www.acma.gov.au/webwr/telcomm/industry\\_codes/codes/c628\\_2007.pdf](http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/c628_2007.pdf)
2. **ePayments Code**  
[http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/ePayments-code-published-20-September-2011.pdf/\\$file/ePayments-code-published-20-September-2011.pdf](http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/ePayments-code-published-20-September-2011.pdf/$file/ePayments-code-published-20-September-2011.pdf)
3. **[Internet] Content Services Code**  
<http://www.iaa.net.au/index.php/section-blog/87.html?layout=default>
4. **Interactive Gambling Industry Code**  
[http://www.dbcde.gov.au/broadband/online\\_gambling/interactive\\_gambling\\_industry\\_code](http://www.dbcde.gov.au/broadband/online_gambling/interactive_gambling_industry_code)
5. **Internet Industry Spam Code of Practice**  
[http://www.acma.gov.au/WEB/STANDARD/pc=PC\\_310325](http://www.acma.gov.au/WEB/STANDARD/pc=PC_310325)

6. **e-Marketing Code of Practice**  
[http://www.acma.gov.au/WEB/STANDARD/pc=PC\\_310326](http://www.acma.gov.au/WEB/STANDARD/pc=PC_310326)
7. **Australian Best Practice Guidelines for Online Behavioural Advertising**  
<http://www.youronlinechoices.com.au/>
8. **IIA Family Friendly ISP Seal**  
[http://www.iaa.net.au/index.php?option=com\\_content&task=view&id=416&Itemid=9#ff%20seal](http://www.iaa.net.au/index.php?option=com_content&task=view&id=416&Itemid=9#ff%20seal)
9. **Australian Association of National Advertisers Code of Ethics**  
[http://www.aana.com.au/advertiser\\_ethics\\_code.html](http://www.aana.com.au/advertiser_ethics_code.html)
10. **iCode (E-Security Code for ISPs)**  
<http://iaa.net.au/index.php/section-blog/90-esecurity-code-for-isps/757-esecurity-code-to-protect-australians-online.html>
11. **IIA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content**  
 including *Content Code 1* (Hosting Content in Australia), *Content Code 2* (Providing Access to Content Hosted Within Australia) and *Content Code 3* (Providing Access to Content Hosted Outside Australia).  
[http://iaa.net.au/images/resources/pdf/iaa\\_code\\_2005.pdf](http://iaa.net.au/images/resources/pdf/iaa_code_2005.pdf)
12. **IIA Responsible Internet Business Program - 10 Point User Protection Code of Ethics**  
<http://iaa.net.au/index.php/initiatives/responsible-internet-businesses.html>
13. **Australian Group Buying Code of Conduct**  
<http://adma.com.au/regulatory/group-buying-code-of-practice/>

### 1.3. Draft Codes

The report has identified three draft codes that we believe have a realistic chance of being finalised and implemented in Australia.

1. **IIA Privacy Code**  
[http://www.iaa.net.au/index.php?option=com\\_content&task=category&sectionid=3&id=68&Itemid=33](http://www.iaa.net.au/index.php?option=com_content&task=category&sectionid=3&id=68&Itemid=33)
2. **IIA Industry Copyright Code**  
<http://www.iaa.net.au/index.php/all-members/881-iaa-fastracks-industry-copyright-code.html>
3. **Best Practices for Dating Websites**  
<http://www.accc.gov.au/>

### 1.4. Best Practice Guidelines for Codes

Codes of conduct are often integrated with other forms of regulation. Direct references to codes in legislation are increasingly common. Regulators are often given the power to register, approve or authorise codes of conduct, which arise from diverse circumstances and varied stakeholders. In these circumstances it is no surprise that some guidance has emerged on best practice in the development of codes of conduct.

This guidance is not always binding, but it is intended to ensure that codes meet basic tests of quality and inclusiveness. In this Report we have identified four key ‘best practice guides’ for the development of codes of conduct:

- ACCC, Guidelines for developing effective voluntary industry codes of conduct (2005)  
<http://www.accc.gov.au/content/index.phtml/itemId/658186>
- ACMA, Developing Telecommunications Codes for Registration: A Guide (2003)  
[http://www.acma.gov.au/webwr/telcomm/industry\\_codes/codes/codes.pdf](http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/codes.pdf)
- ASIC Regulatory Guide 183 - Approval of financial services sector codes of conduct (2007)  
[http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/\\$file/ps183.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/$file/ps183.pdf)
- Office of the Australian Information Commissioner, Privacy Code Development Guide (September 2001)  
<http://www.privacy.gov.au/materials/types/guidelines/view/6482>

These ‘best practice’ guidelines offer a set of criteria by which codes can be compared. Each code has been assessed against the common criteria we have identified from the guidelines.

### **1.5. Issues for consumers**

Our general approach was from the perspective of Australian consumers of online services, and how codes may fit with their expectations and needs. Without the benefit of a legal or technical department (or detailed knowledge of industry structures) to assist them when they discover they may need to use a code, online consumers’ interests often align with virtues like simplicity, clarity, accessibility, certainty, consistency, easy-to-use remedies, and a general focus on ‘user needs’.

Issues identified for consumers include, to varying degrees:

- the very number of codes which could potentially be applicable to a given online transaction or issue;
- the complexity of their overlapping coverage;
- wide variations in language, procedure, remedies and robustness;
- uncertainty about coverage and ‘jurisdiction’ broadly considered, including an often limited or non-existent capacity to involve dominant online service providers operating offshore;
- patchy or very low sign-up by industry participants, and in some cases difficulty in ascertaining who is a ‘member’ of the code and what this means;
- inconsistent approaches to effective complaint handling;
- inconsistent or undeveloped approaches to cross-referral to other codes or code bodies where an inquiry may be outside scope of the first code considered (to prevent ‘falling through the cracks’); and
- a tendency to focus on industry rather than consumer convenience in regulatory scheme design.



## **2. Comparative Analysis**

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*This section compares the overall impact of the 13 completed codes against some of the key best practice criteria.*

### **2.1. Coverage**

Some codes provide automatic coverage for certain types of businesses, especially ISPs, and this has resulted in good rates of coverage for those codes.

This Report examines the extent of code coverage amongst the top 50 websites visited by Australian consumers, and the top 19 ISPs by Australian market share. Detailed coverage tables are listed in Appendices 2 and 3.

As can be seen in the appendices, the majority of codes require companies to subscribe to the code before coverage can be assured, and for most codes sign-up rates are very low.

In addition, many of the top 50 websites visited by Australian consumers are hosted outside Australia by organisations that appear unlikely to sign up to Australian codes of conduct. However, there are some very limited examples of global companies signing key Australian codes.

Overall the coverage of the 13 codes appears to be very poor. Simply having a large number of codes does not ensure consumer protection if most codes only have a few signatories.

Organisations are also faced with a difficult decision in deciding which codes to sign. For example, a typical Australia e-commerce website is probably not interested in signing more than 1-2 codes. ISPs are in a slightly different position as they are automatically covered by several codes, but they still face decisions about signing a further half a dozen relevant codes. The benefits of signing additional codes diminish rapidly once an organisation is already covered by one code.

### **2.2. Overlaps**

There are significant overlaps in code content amongst the 13 codes in force and the three draft codes.

The main overlaps are in the areas of:

- privacy protection;
- truth in advertising;
- refunds and returns; and
- the prohibition against sending spam.

Some of these requirements appear in more than ten of the codes in the study.

These overlaps have a range of impacts for potential signatories, including:

- uncertainty about which and how many to join, or whether they are eligible, or required, to join;
- whether their obligations would vary between the codes;
- the necessity to understand the details of overlap; and

— implications for compliance with overlapping and potentially inconsistent frameworks.

The overlaps may also cause concerns for consumers, including:

- uncertainty about which and how many codes might cover a particular situation or concern;
- whether codes covering similar concerns are consistent on specific points;
- the implications of any inconsistency;
- whether there is effective referral between codes where one has more direct relevance than another; and
- whether there are implications for successful resolution of concerns arising from deciding to start with one rather than another possibly relevant code.

This current report appears to be the first time that all of the Codes have been considered in the one review. Indeed, no published report lists or even mentions more than a handful of the codes. There is insufficient space in this report for a detailed comparative analysis of every aspect of code content, but it is a concern that significant overlaps have been allowed to develop without any detailed analysis.

### **2.3. Registration Status**

Code registration plays an important role in ensuring that codes meet minimum quality standards. Registration also plays a role in ensuring that industry has consulted with a wide range of stakeholders during the code development process.

Seven of the 13 codes that are in force are registered by a regulator, most by ACMA and one by ASIC:

- Telecommunications Consumer Protection Code (TCP)  
(registered by the ACMA in 2008)
- [Internet] Content Services Codes  
(registered by ACMA in 2008, under Sched. 7 Broadcasting Services Act 1992 (BSA))
- Interactive Gambling Code  
(registered by the ACMA in 2001, under Interactive Gambling Act 2001 (IGA))
- Internet Industry Spam Code of Practice  
(registered by the ACMA in 2006, under TA and Spam Act 2003)
- Australian E-Marketing Code of Practice  
(registered by ACMA in 2005)
- IIA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content  
(registered by the ACMA in May 2005, under Schedule 5 to the BSA)
- ePayments Code  
(approved by ASIC in 2011)

There may be a lack of clarity for consumers regarding the registration of some codes by the ACMA.

The ACMA maintains a 'Register of Codes' registered under Part 6 of the *Telecommunications Act 1997* at: [http://www.acma.gov.au/WEB/STANDARD/pc=PC\\_2525](http://www.acma.gov.au/WEB/STANDARD/pc=PC_2525)

However, the Register may not be definitive for Internet related codes registered by ACMA. It only lists three of the codes noted above (E-Marketing, Spam and TCP). Other ACMA documents note that further Codes have been registered, and their registration does not appear to have lapsed or been revoked.

For instance, another ACMA code registration page for 'Online codes' under two other Acts, the *Broadcasting Services Act 1992* and the *Interactive Gambling Act 2001*, is at: [http://www.acma.gov.au/scripts/nc.dll?WEB/STANDARD/1001/pc=PC\\_300106](http://www.acma.gov.au/scripts/nc.dll?WEB/STANDARD/1001/pc=PC_300106). This mentions the Internet and Mobile Content Code and the Content Services Code, their registration dates, and refers to 'ISP Code Compliance Reports' of 2004 and 2006 (which appear to be the last systematic published review of compliance).

Many of the codes in this study remain un-registered, which means that they have not been the subject of detailed external review.

## **2.4. Binding power**

This is an area of significant importance to consumers, but in practice a wide variety of binding techniques are in use in Australia. The various approaches appear to be applied in an ad hoc and inconsistent way, and it is difficult to see what policy purpose is served by the various approaches.

Some codes are only binding on subscribers who have voluntarily become members of the code:

- The ePayments Code;
- The Australian Best Practice Guidelines for Online Behavioural Advertising;
- The IIA Family Friendly ISP Seal;
- The iCode;
- The IIA Responsible Internet Business Program - 10 Point User Protection Code of Ethics; and
- The Australian Group Buying Code of Conduct.

Other codes are mandatory on entire or parts of the industry sector:

- Internet Content Services Code;
- Interactive Gambling Code;
- Spam Code of Practice;
- E-Marketing Code of Practice;
- The Australian Association of National Advertisers Code of Ethics; and
- IIA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content.

The Telecommunications Consumer Protection (TCP) Code is unusual in that it does not fit neatly into either of these categories. The regulator (ACMA) can direct any carrier or carriage service provider to comply with the Code, so it is potentially binding on nearly 1,000 organisations. In practice, it has only been signed by two companies, and the ACMA does not direct organisations to comply with the Code.

Certain aspects of the TCP code, notably the code compliance monitoring regime, only apply to signatories.

Some industry stakeholders have noted that the flexible approach to binding has been useful in allowing some codes to develop organically, and to allow for the early delivery of some consumer benefits while work continues on other elements of the code.

## **2.5. Jurisdiction**

Many of the completed codes are limited in jurisdiction to content accessible in Australia or industry members and subscribers in Australia. Where the code applies to industry members and subscribers in Australia, content or services provided by them outside Australia may also come within the code's jurisdiction:

- The Telecommunications Consumer Protection (TCP) Code applies to Australian carriers although the content may be outside Australia;
- The ePayments Code is limited to payment products or services offered in Australia by a Code subscriber;
- The E-Marketing Code of Practice covers sending commercial electronic messages, whether it originated or was commissioned in Australia or from overseas but has been sent to an address accessed in Australia; and
- The iCode applies to Australian ISPs.

Conversely, where the code applies to content accessible in Australia, foreign persons or companies offering services or hosting content in Australia might also come within the code's jurisdiction:

- The Spam Code of Practice applies to Global ISPs offering services in Australia as well as Australian ISPs;
- The Internet Content Services Code applies to content accessible in Australia with an 'Australian connection';
- The Australian Association of National Advertisers Code of Ethics applies to all advertising or marketing communications with an Australian-customer link (i.e. if any or all of the customers of the product, service etc. are physically present in Australia);
- The Australian Best Practice Guidelines for Online Behavioural Advertising is not limited to Australian content but applies to participants that are engaged in Third Party OBA including those parties that have Third Party OBA appearing on their Websites; and
- The IIA Family Friendly ISP Seal applies to ISPs who provide access to users within Australia.

The question of jurisdiction is complicated for the Interactive Gambling Code, which prevents access to overseas-hosted prohibited Internet gambling services.

## **2.6. Register of subscribers**

Most organisations simply don't mention codes of conduct on their own sites, so consumers have to search for a register of subscribers elsewhere and cross-check against the site they are concerned about.

Is this system sustainable when there are 13 codes in force, and three draft codes in development? Consumers would benefit from having each subscriber clearly indicate its membership of relevant codes.

Whether the code has a register of subscribers is only relevant for codes that are voluntary or a combination of both mandatory and voluntary. All of the voluntary codes have a register of subscribers that is accessible online either through the website of the code or the regulatory body. However, the registers for some codes are not necessarily up-to-date and it is often difficult to determine the proportion of the industry that subscribes.

- Telecommunications Consumer Protection (TCP) Code
  - The TCP Code register can be found with some difficulty at the Communications Alliance web site
  - There are currently two subscribers
  - This appears to be an extremely low representation of the overall telecommunications industry and ISP community, which numbers close to 1000 companies
- ePayments Code (previously the EFT Code of Conduct)
  - The ePayments Code register is easily located and well marked on the ASIC website
  - There are 169 subscribers to the current EFT Code, but at the time of writing these subscribers are transitioning to the new ePayments Code.
  - It is difficult to determine what proportion of the industry this is as the payment industry has expanded significantly in the past decade.
- The Australian Best Practice Guidelines for Online Behavioural Advertising
  - The Guideline signatories are noted on the Guidelines website
  - There are currently 10 subscribers
  - The number of subscribers is small, but the list includes some very large and significant online providers, representing an estimated 80% of relevant organisations.
- IIA Family Friendly ISP Seal
  - The main reference to the seal program does not mention a list of subscribers. [http://www.iaa.net.au/index.php/component/content/416.html?task=view%20#ff\\_seal](http://www.iaa.net.au/index.php/component/content/416.html?task=view%20#ff_seal)
  - There is a short list of “Participating IIA 'Family Friendly' ISPs” at <http://www.iaa.net.au/index.php/about/56/54-participating-iaa-family-friendly-isps.html>
  - The list of participants above is explicit and apparently complete; it has 11 entries. However, it is dated 2005.
  - This represents a very small fraction of the sector.
- iCode
  - On the Code page there is no indication of any list of subscribers, nor whether all IIA members are part of the scheme. As a voluntary scheme it is unclear whether membership is voluntary or compliance is voluntary or both. See <http://www.iaa.net.au/index.php/all-members/869-get-ready-for-icode-in-force-1-december-2010.html>

- The number of subscribers is not known.
- IIA, Responsible Internet Business Program - 10 Point User Protection Code of Ethics
  - There is a link on the Code page to the members list. It is dated August 2009. The member names link back to their web sites.
  - There are 26 members listed on the page at <http://iia.net.au/index.php/initiatives/748-businesses-of-the-responsible-internet-business-program.html>
  - This appears to represent only a small fraction of the relevant sector.
- Australian Group Buying Code of Conduct
  - The list of signatories to the code is clearly set out on the page hosting the code. There are contact details for each named entity.
  - There are 8 named subscribers on the ADMA page for the Code.
  - This appears to include the majority of significant group buying sites in Australia and represents a high level of coverage.

## **2.7. Code compliance monitoring and enforcement**

All of the best practice guidelines issued by regulators stress the importance of monitoring and enforcement, but in practice it appears that almost no independent compliance monitoring occurs for the majority of codes in the study, and enforcement is extremely rare.

Some industry stakeholders have noted that monitoring and enforcement of codes is largely managed on the basis of complaints. Consumer and government stakeholders have stressed the importance of additional compliance monitoring.

Communications Alliance has proposed a new compliance monitoring initiative for the revised Telecommunications Consumer Protection Code. This includes a proposal to establish a new monitoring body – Communications Compliance. This proposal is being considered by the regulator.

The absence of independent compliance monitoring is not unique to this sector. Very few industry codes of conduct in Australia are subject to independent monitoring, although the Code of Banking Practice provides a rare example of independent monitoring (by the Code Compliance Monitoring Committee).

## **2.8. Code development**

Despite the existence of best practice guidance on code development, most of the codes included in this study have not been subject to wide consultation. (See Appendices for copies of the four guides offered by the regulators.)

Consumer representation in the code development process has been weak or absent in many cases, and it is not uncommon for codes to appear almost overnight, without any community discussion.

Industry stakeholders have acknowledged that some codes and guidelines have been launched quickly and with little notice, however this reflects the rapid pace of development of online products and services. Some of the codes have been designed to include reviews which can incorporate feedback from consumer representatives.

Consumer stakeholders have also noted that advocacy organisations may lack the time and resources to make effective contributions to the code development process without additional support.

## **2.9. Promotion and public awareness**

Overall, code promotion is virtually non-existent for the majority of codes. There are usually no general consumer awareness campaigns or public promotion.

However, there are some good examples where code membership is disclosed by individual sites.

Public awareness of codes can be promoted through a variety of mechanisms. These include:

1. The code itself can include a requirement for subscribers to promote the code (e.g. on websites and in terms and conditions of use);
2. The code can be complemented by the use of a visible “seal” on subscriber’s websites;
3. The code can include a requirement for public reports on code compliance;
4. The code can include a mechanism to name organisations regarding non-compliance;
5. The relevant regulator can promote consumer awareness of the code; and
6. The relevant industry body can promote consumer awareness of the code.

## **2.10. Code review**

Codes need to keep up to date with changes in technology, law and business practice. This is generally achieved through a requirement for regular code reviews.

Most codes in the study include a requirement to review the code every three years. This requirement often includes a provision for the review to be conducted by an independent party.

In practice the reviews are not completed or are hopelessly overdue for the majority of codes in the study.

### 3. Appendix 1 – Code Analysis

#### 1. Telecommunications Consumer Protection (TCP) Code

Name	TCP Code
<b>Full name of the Code</b>	Telecommunications Consumer Protection (TCP) Code
<b>URL</b>	<a href="http://www.acma.gov.au/webwbr/telcomm/industry_codes/codes/c628_2007.pdf">http://www.acma.gov.au/webwbr/telcomm/industry_codes/codes/c628_2007.pdf</a>
<b>Date</b>	September 2007
<b>Host</b>	Communications Alliance (CA)
<b>Regulator</b>	Australian Communications and Media Authority (ACMA)
<b>Status</b>	In force and subject to an ongoing review A new code is currently in its draft stages with the final report of the ACMA 'Reconnecting the Customer' Inquiry requiring it to incorporate suggested changes in 2012.
<b>Registration Status</b>	Registered with ACMA in 2008 pursuant to s117 of the <i>Telecommunications Act 1997</i>
<b>Binding</b>	Voluntary through signing and reactionary across the industry (ACMA can direct compliance with the Code). Applies to the carriage services providers section of the Telecommunications industry under s110 of the Telecommunications Act 1997.
<b>General purpose</b>	The TCP code helps industry comply with best practices in the following areas: <ul style="list-style-type: none"> <li>• advertising of products and informing customers about the prices, terms and conditions of products on offer;</li> <li>• determining when consumer contract terms may be considered unfair;</li> <li>• billing procedures and the provision of billing information to customers;</li> <li>• the credit assessment of customers, the provision of security and credit control tools, and a requirement to have a financial hardship policy to assist customers experiencing financial difficulties;</li> <li>• ensuring all transfers of service that occur are authorised and verified; and</li> <li>• Complaint handling procedures for information provision to customers and recording of their complaints.</li> </ul>
<b>Jurisdiction</b>	May apply beyond Australian content as long as it involves a person/carrier/provider belonging to a section of the telecommunications industry under s110 of the Telecommunications Act 1997 in Australia.
<b>Eligible complainants</b>	Individual customers may first complain to the service provider. A member of the industry (or a voluntary/ non-profit consumer organisation or similar body) may complain to ACMA or directly to Communications Alliance.
<b>Register of subscribers - available</b>	Maintained by Communications Alliance.
<b>Register of subscribers – ease of use</b>	Unable to easily find information on this – requires detailed , multiple searches.
<b>Number of subscribers</b>	2
<b>Proportion of industry that subscribe</b>	Very small – there are around 1,000 eligible organisations.
<b>Code compliance monitoring</b>	The code is partly monitored by the Telecommunications Industry Ombudsman (TIO) receiving, investigating, facilitating complaints which can be identified as a code breach. The TIO issues regular statistics on such breaches. Communications Alliance (CA) also reviews TIO complaints statistics and has a general code monitoring role, although in practice it has not provided any reports on overall code compliance. For signatories to the code (there are only 2 signatories) a separate code compliance-monitoring regime is theoretically in place, requiring regular reports. In practice, no reports have been issued.



Name	TCP Code
<b>Enforcement</b>	<p>The code is enforced by</p> <ul style="list-style-type: none"> <li>• TIO's power under <i>Telecommunications Act 1997</i> s114 to make determinations in relation to, give directions in relation to and report on complaints</li> <li>• ACMA's power to direct service providers to comply with the code after a breach. Breach of ACMA directions is a civil matter.</li> <li>• ACMA's power to issue formal warnings and formal directions under ss 122 and 121 of the <i>Telecommunications Act 1997</i> but in practice, very few directions have been given</li> </ul>
<b>Internal Dispute Resolution</b>	<p>Service providers must have a complaint handling process that has regard to the Australian Standard – Complaints Handling AS ISO 10002-2006.</p> <p>Compliant Handling policies must be published and available to customers and staff with information about the right to complain and how, when and where to do so.</p> <p>Where possible, the service provider must seek to resolve a complaint at first contact, but must finalise it within 30 days or as soon as practicable.</p>
<b>External Dispute Resolution</b>	<p>External dispute resolution by CA of complaints about signatories is subject to the Code Administration and Compliance Scheme G514:2003. In practice this has not been used.</p> <p>The TIO acts as an effective EDR scheme for code complaints.</p>
<b>Systemic Issues</b>	<p>In regards to requirements to identify systemic issues, service providers must classify and analyse complaints every 3 months, and implement processes and procedures to facilitate resolution at first point of contact. The TIO may also refer systemic problems, identified through complaint statistics to the ACMA. In practice, neither of these requirements has been utilised and virtually no systemic issues have been reported to the ACMA.</p>
<b>Code Development</b>	<p>Code development is facilitated through a steering committee of representatives from the Telecommunications industry and consumer groups.</p>
<b>Code Oversight</b>	<p>A code steering committee is in place.</p>
<b>Consumer representation</b>	<p>Consumer representatives sit on both the steering committee and review committee.</p>
<b>Code Chair</b>	<p>An independent chair sits on the Code steering committee and the code review committee.</p>
<b>Code Review</b>	<p>After the first 2 years of registration and then every 5 years or earlier if there are significant developments impacting the code.</p>
<b>Public reports</b>	<p>There are no specific requirements, but regular public reports are issued in the form of the ACMA compliance and enforcement bulletins, available on the ACMA website. These reports usually provide updates on 1-2 code compliance issues.</p>
<b>Public naming of subscribers for non-compliance</b>	<p>ACMA may make public comment for findings of systemic breaches and complaints.</p>
<b>Code promotion – industry body</b>	<p>The Communication Alliance and the TIO have websites promoting the code but this is limited. There has been no significant active promotion of the code.</p>
<b>Code promotion – subscribers</b>	<p>Complaints handling policies are publicised to customers and staff. Self-regulatory codes are mentioned in general terms, but there are very few direct references to the TCP code.</p>
<b>Complaints statistics</b>	<p>The TIO publishes regular complaints statistics that average around 30,000 per quarter.</p>
<b>Enforcement statistics</b>	<p>There has been no direct enforcement of the code in recent years, apart from the resolution of individual complaints.</p>

As discussed above, the TCP Code is the subject of a major review. The ACMA has stated that the new TCP code will need to address the issue that telecommunications providers and ISPs did not publicly commit to the code nor work to promote the code.

ACMA's report suggests that industry members should at least commit publicly to comply in order to demonstrate a preparedness to meet the Code obligations and foster public confidence in the Code's regulatory effectiveness. To further strengthen the code's co-regulatory framework, Industry members should also be required to take a greater role in identifying and addressing non-compliance, such as through mandatory reporting on their compliance activities.

The code should also compel industry members to undertake responsibility for identifying systemic issues and working with ACMA and TIO to develop effective responses.

ACMA has given the industry/Communications Alliance notice requesting several deficiencies in the code to be addressed. The industry has generally responded positively to these recommendations. For example, the draft revised TCP code includes the creation of an independent body, Communications Compliance (CC), with its primary function to monitor Code compliance. At the time of writing, a new version of the Code is being reviewed by the regulator.

## 2. ePayments Code

Name	ePayments Code
<b>Full name of the Code</b>	ePayments Code
<b>URL</b>	<a href="http://www.asic.gov.au/">http://www.asic.gov.au/</a>
<b>Date</b>	Issued September 2011
<b>Host</b>	ASIC
<b>Regulator</b>	ASIC
<b>Status</b>	The previous EFT Code is still in force. The transition period for the new ePayments Code began on 20 September 2011 and subscribers must comply with the new Code by 20 March 2013. (Subscribers can volunteer to be bound by the new Code from an earlier date).
<b>Registration Status</b>	Approved by ASIC
<b>Binding</b>	Binding on voluntary subscribers
<b>General purpose</b>	Provides protection for consumers who use electronic means for making payments (including ATMs, EFTPOS, credit cards, online payments, Internet banking and BPAY) by binding subscribers to: <ul style="list-style-type: none"> <li>• A quality consumer protection regime for payment facilities;</li> <li>• A framework to promote consumer confidence in electronic banking and payment systems;</li> <li>• Effective disclosure of information, to enable consumers to make informed decisions about facilities;</li> <li>• Clear and fair rules for allocating liability for unauthorised transactions; and</li> <li>• Effective procedures for resolving complaints.</li> </ul> It applies to all consumer payment transactions initiated electronically.
<b>Jurisdiction</b>	Limited to transactions involving an Australian subscriber.
<b>Eligible complainants</b>	Individual consumers only. It does not apply to a facility that is designed primarily for the use by a business; where the holder and subscriber do not have a contractual relationship; and biller accounts (consumer accounts held by a business that records the amounts owing and paid by the consumer for goods and services provided by that business only).
<b>Register of subscribers - available</b>	Yes
<b>Register of subscribers – ease of use</b>	The register can be easily found on the ASIC website: <a href="http://www.asic.gov.au/">http://www.asic.gov.au/</a>
<b>Number of subscribers</b>	The previous EFT Code had 169 subscribers – these subscribers are now transitioning to the new ePayments Code.
<b>Proportion of industry that subscribe</b>	Difficult to determine as the payment industry has expanded significantly in the past decade, introducing many new payment providers. Overall it appears to cover all of the large providers and the majority of small and medium providers.
<b>Code compliance monitoring</b>	ASIC expects to collect data on unauthorised transactions and mistaken payments. ASIC or its agent may also undertake targeted compliance monitoring with specific obligations under the Code.

Name	ePayments Code
<b>Enforcement</b>	ASIC works directly with subscribers in rectifying any issues observed with Code compliance. ASIC can also publish information about non-compliance by subscribers in its annual compliance report.
<b>Internal Dispute Resolution</b>	<p>A subscriber must have internal dispute resolution procedures that comply with:</p> <p>(a) ASIC Regulatory Guide 165 <i>Licensing: Internal and external dispute resolution</i> (RG 165), and</p> <p>(b) AS ISO 10002–2006 <i>Customer satisfaction—Guidelines for complaints handling in organizations</i> to the extent required by RG 165.</p> <p>Within 21 days of receiving a complaint, a subscriber must:</p> <p>(a) complete the investigation and advise the user, in writing, of the outcome, or</p> <p>(b) advise the user in writing of the need for more time to complete its investigation.</p> <p>Unless there are exceptional circumstances, a subscriber must complete its investigation within 45 days of receipt of the complaint.</p>
<b>External Dispute Resolution</b>	<p>Must inform customers of right to lodge with EDR within 5 business days. Membership of EDR schemes is not required by the code but required as a financial service licensee.</p> <p>External dispute resolution bodies include:</p> <ul style="list-style-type: none"> <li>• Financial Ombudsman Service</li> <li>• Credit Ombudsman Service</li> </ul>
<b>Systemic Issues</b>	Systemic issues have been identified by ASIC through compliance reports or through the general review of the Code. EDR schemes may also report systemic issues with code compliance to the regulator.
<b>Code Development</b>	ASIC or its agent must commence a review of the Code within 5 years of the conclusion of each preceding review. In conducting a review, ASIC or its agent must consult with stakeholders, including: subscribers, industry associations and peak representative groups, federal, state and territory government agencies, consumer representatives, and external dispute resolution schemes.
<b>Code Oversight</b>	ASIC administers the code.
<b>Consumer representation</b>	Consumer organisations are represented throughout the Code's review process. ASIC welcomes input from consumer organisations about trends observed or any concerns they may have about electronic payment products and how the Code can be used to address the issues.
<b>Code Chair</b>	ASIC serves as Chair for the working groups for this Code.
<b>Code Review</b>	ASIC or its agent must commence a review of the Code within 5 years of the conclusion of each preceding review.
<b>Public reports</b>	<p>ASIC had been publishing compliance reports but that is subject to review. The last publication was 2003/2004 under the previous EFT Code of Conduct.</p> <p>The ePayments Code requires subscribers to report to ASIC or its agents annually with information about unauthorised transactions. A subscriber may also be required to report information about compliance with specific clauses of the Code as part of targeted compliance monitoring activities. However the specific requirements of the reports and whether such reports will be made publicly available are unknown at this stage.</p>
<b>Public naming of subscribers for non-compliance</b>	ASIC can publish information about non-compliance in its annual compliance reports.
<b>Code promotion – industry body</b>	The Australian Bankers Association and ABACUS both promote the code. ASIC is also considering a public awareness campaign for the new Code.
<b>Code promotion – subscribers</b>	<p>Subscribers generally provide a warranty to abide by code in terms and conditions.</p> <p>Subscribers provide the terms and conditions at account initiation and on user request.</p>
<b>Complaints statistics</b>	<p>The following complaints statistics are from the ePayments Code's predecessor, the EFT Code of Conduct:</p> <ul style="list-style-type: none"> <li>• 138,775 EFT complaints out of 2.5 billion EFT transactions for the period (2003-2004).</li> <li>• 71% resolved in customer's favour.</li> </ul> <p>More recent data is not available.</p>
<b>Enforcement statistics</b>	The annual compliance survey was been suspended due to the Code review that resulted in the revised ePayments Code that was released in September 2011.

### 3. Internet Content Services Code

This Code must be read in conjunction with Schedule 7, *Broadcasting Services Act 1992* (Cth).

Name	Internet Content Services Code
<b>Full name of the Code</b>	IIA Content Services Code of Practice (Version 1.0)
<b>URL</b>	<a href="http://www.iaa.net.au/images/content_services_code_registration_version_1.0.pdf">http://www.iaa.net.au/images/content_services_code_registration_version_1.0.pdf</a>
<b>Date</b>	10 July 2008
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	Australian Communications and Media Authority (ACMA)
<b>Status</b>	In force
<b>Registration Status</b>	Registered with ACMA (pursuant to Schedule 7 of the Act) [Date unknown]
<b>Binding</b>	Mandatory for commercial content service providers, live content service providers, hosting service providers and chat service providers for content accessible in Australia via fixed and mobile Internet devices with an "Australian connection" as defined in the Act. See <i>Jurisdiction</i> below
<b>General purpose</b>	<p>The Code promotes safer online experiences for the community (particularly children).</p> <p>It provides guidelines to designated providers for the meeting of their legal obligations and best practices, specifically in the areas of:</p> <ul style="list-style-type: none"> <li>• Handling complaints (Part C);</li> <li>• Taking-down notified content or content services (Part D );</li> <li>• Promoting online safety for Australian families (Part E);</li> <li>• Implementing restricted access systems for some content services (Part F); and</li> <li>• Regulating certain chat services (Part G).</li> </ul> <p>Code compliance provides for compliance with Schedule 7 of the Broadcasting Services Act 1992</p>
<b>Jurisdiction</b>	<p>The Code applies to content accessible in Australia with an 'Australian connection'.</p> <p>(1) A Content Service has an Australian Connection if, and only if:</p> <ul style="list-style-type: none"> <li>• (a) any of the Content provided by the Content Service is hosted in Australia; or</li> <li>• (b) In the case of a Live Content Service—the Live Content Service is provided from Australia.</li> </ul> <p>(2) A Hosting Service has an Australian Connection if, and only if, any of the Content hosted by the Hosting Service is hosted in Australia.</p>
<b>Eligible complainants</b>	Only persons with a contractual relationship with a Service Provider may make a complaint.
<b>Register of subscribers - available</b>	N/A
<b>Register of subscribers – ease of use</b>	N/A
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	N/A
<b>Code compliance monitoring</b>	<p>ACMA is the code compliance monitoring body. Under the Act ACMA has the power to investigate complaints relating to Prohibited Content or Potential Prohibited Content and to monitor compliance with the Code.</p> <p>Contravention of a requirement of the Code by a person covered by the Code may be the subject of a warning by ACMA or a direction by ACMA to that person to comply with the Code and, if a direction by ACMA is not complied with, enforcement action by ACMA and imposition of penalties pursuant to Part 6 of Schedule 7 of the Act.</p>

Name	Internet Content Services Code
<b>Enforcement</b>	Enforcement measures under Part 6 of Schedule 7 of the Act include: <ul style="list-style-type: none"> <li>• ACMA can issue take down notices;</li> <li>• Online provider rules require ISPs to comply with the ACMA notices and directions, for example, an access-prevention notice or a direction to comply with a code or standard;</li> <li>• Contravention of an online provider rule is a criminal offence and a continuing offence for each day the contravention continues;</li> <li>• Designated content/hosting service provider rules require content service providers to comply with ACMA notices and directions; and</li> <li>• Contravention of an online provider rule is a criminal offence and a continuing offence for each day the contravention continues.</li> </ul>
<b>Internal Dispute Resolution</b>	<ul style="list-style-type: none"> <li>• Providers should publish a procedure for complaint handling including information on escalation of complaints.</li> <li>• Complaints should be managed appropriately and within a reasonable time.</li> <li>• Formats for making of complaints should include electronic lodgment.</li> <li>• Complaints can be made and should be investigated if it is reasonable to believe that End Users in Australia can access Prohibited Content or Potential Prohibited Content provided by the Hosting Service Provider;</li> </ul>
<b>External Dispute Resolution</b>	Complainants can complain to the ACMA. Moreover, ACMA decisions can be appealed to the Administrative Appeals Tribunal (AAT).
<b>Systemic Issues</b>	A risk management system has been suggested to manage systemic issues. However it appears no current process to treat systemic issues exists.
<b>Code Development</b>	Developed by unidentified representatives from the industry and open to public comment after development.
<b>Code Oversight</b>	N/A
<b>Consumer representation</b>	Only consultation post development and pre-registration.
<b>Code Chair</b>	N/A
<b>Code Review</b>	18 months after implementation. It is unclear whether this review has commenced – it is now overdue.
<b>Public reports</b>	No
<b>Public naming of subscribers for non-compliance</b>	Yes (potential for naming by ACMA)
<b>Code promotion – industry body</b>	Appears to be no active promotion of the code.
<b>Code promotion – subscribers</b>	There is no specific requirement for code promotion, although if members are also subscribers to the IIA Family Friendly Seal program (see below) they will usually include a link to the code on their website.
<b>Complaints statistics</b>	Do not appear to be available.
<b>Enforcement statistics</b>	None available

#### 4. Interactive Gambling Industry Code

Name	Interactive Gambling industry Code
<b>Full name of the Code</b>	Interactive Gambling Industry Code
<b>URL</b>	<a href="http://www.acma.gov.au/webwr/aba/contentreg/codes/internet/documents/gamblingcode.pdf">http://www.acma.gov.au/webwr/aba/contentreg/codes/internet/documents/gamblingcode.pdf</a>
<b>Date</b>	December 2001
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	ACMA
<b>Status</b>	In force
<b>Registration Status</b>	Registered with ACMA on 13 Dec 2001
<b>Binding</b>	Mandatory on ISPs

Name	Interactive Gambling industry Code
<b>General purpose</b>	<p>The Code provides procedures to be followed by Internet Service Providers (ISPs) in relation to Internet gambling content hosted outside Australia. The Code also makes provision for ISPs to provide their customers with one of the approved filters listed in Schedule 1 of the Code.</p> <p>The Code is a formulation of a notification scheme. ACMA notifies ISPs of prohibited Internet gambling content hosted outside Australia. ISPs provide a scheduled filter which is updated with the prohibited content sites.</p> <p>The purpose is primarily to limit liability to ISPs and content service providers in the context of legislation, or provides alternative means by which obligations which arise under law would otherwise apply to them.</p>
<b>Jurisdiction</b>	Prevents access from Australia to overseas-hosted prohibited Internet gambling services.
<b>Eligible complainants</b>	The code regulates ISPs providing services to both private consumers and business.
<b>Register of subscribers - available</b>	N/A
<b>Register of subscribers – ease of use</b>	N/A
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	N/A
<b>Code compliance monitoring</b>	None specified
<b>Enforcement</b>	<ul style="list-style-type: none"> <li>• Under the IGA act, ACMA can direct ISPs to comply and can issue up to 50 penalty units for failure to comply.</li> <li>• ACMA can direct for specific remedial actions.</li> <li>• ACMA can issue formal warnings.</li> <li>• Federal court can issue an injunction to stop an ISP providing services.</li> </ul>
<b>Internal Dispute Resolution</b>	None specified
<b>External Dispute Resolution</b>	None specified
<b>Systemic Issues</b>	It is expected that IIA would report any systemic issues to ACMA, but it has not done so, suggesting that there are no systemic issues to report so far.
<b>Code Development</b>	Mandatory 30 day consultation period
<b>Code Oversight</b>	None specified
<b>Consumer representation</b>	None specified
<b>Code Chair</b>	None specified
<b>Code Review</b>	None specified
<b>Public reports</b>	None specified
<b>Public naming of subscribers for non-compliance</b>	N/A. Considering that there are already enforcement mechanisms that exist under law, vested in ACMA, IIA feels that it is unnecessary for IIA to undertake additional enforcement measures, such as public naming.
<b>Code promotion – industry body</b>	None specified
<b>Code promotion – subscribers</b>	Compliance seal available – IIA Family Friendly ISP seal which can be displayed on subscriber's websites (see below).
<b>Complaints statistics</b>	<p>None</p> <p>IIA state that in the time that the Code has been in force they are not aware of any complaints directed to them from consumers in respect of compliance or other matters, nor have they received any advice from ACMA as to unresolved complaints it may have received in respect of any of the Codes.</p>
<b>Enforcement statistics</b>	There are enforcement mechanisms that exist under law, vested in ACMA. IIA is not aware of any instances of non-compliance where ACMA may have directed compliance and been refused.

## 5. Internet Industry Spam Code of Practice

This code must be read in conjunction with the *Spam Act 2003* (Cth).

Name	Spam Code
<b>Full name of the Code</b>	Internet Industry Spam Code of Practice
<b>URL</b>	<a href="http://www.acma.gov.au/webwrtelcomm/industry_codes/codes/iaa%20spam%20code%20dec%202005.pdf">http://www.acma.gov.au/webwrtelcomm/industry_codes/codes/iaa%20spam%20code%20dec%202005.pdf</a>
<b>Date</b>	Implemented 16 July 2006
<b>Host</b>	Internet Industry Association
<b>Regulator</b>	ACMA. As the Regulator, ACMA can order industry participants to comply.
<b>Status</b>	In force
<b>Registration Status</b>	Registered with ACMA on 16 March 2006
<b>Binding</b>	Applies to all Australian ISPs and Global ISPs offering services in Australia (very limited application to global ISPs).
<b>General purpose</b>	<p>The purpose of the Code is to minimise spam through regulations and obligations on Internet Service Providers:</p> <ul style="list-style-type: none"> <li>(a) provide rules and guidelines for Service Providers to ensure compliance with their legal obligations and promote the adoption of responsible processes and procedures for dealing with Spam;</li> <li>(b) ensure these rules and guidelines are developed in such a way as to achieve a balance between legitimate industry interests and viability and End User interests;</li> <li>(c) reduce the volume of Spam being created within the Australian internet;</li> <li>(d) reduce the volume of Spam being delivered to Australian email boxes;</li> <li>(e) promote End User confidence in and encourage the use of the Internet; and</li> <li>(f) Provide a transparent mechanism for complaint handling by Service Providers in relation to Spam and any breaches of this Code, and ensuring that complaints are handled in a fair and efficient manner.</li> </ul> <p>The purpose is primarily to limit liability to ISPs and content service providers in the context of legislation, or provide alternative means by which obligations which arise under law would otherwise apply to them.</p> <p>The purpose does not include governing the rights and responsibilities of consumers directly. As such it is not a consumer-facing code per se, although elements of its application may have a bearing on the end user experience. For example the application of the Spam Code by their ISPs may mean they get less spam.</p>
<b>Jurisdiction</b>	Applies to Australian ISPs or Global ISPs offering services in Australia.
<b>Eligible complainants</b>	Any person with access to an email account may report spam but only such persons with a contractual relationship with a Service Provider may make a complaint
<b>Register of subscribers - available</b>	N/A
<b>Register of subscribers – ease of use</b>	N/A
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	N/A
<b>Code compliance monitoring</b>	ACMA monitors industry compliance and complaints can be referred to the IIA or TIO by the ACMA
<b>Enforcement</b>	ACMA can issue compliance directions and formal warnings. IIA is not aware of any instances of non compliance where ACMA may have directed compliance and been refused.

Name	Spam Code
<b>Internal Dispute Resolution</b>	Service Providers are required to have a documented complaint handling process and provide it on request. Complaints must: <ul style="list-style-type: none"> <li>• Have regard to AS 4269-1995 Australian Standard - Complaint Handling;</li> <li>• Provide for escalation of internal complaints and options of EDR;</li> <li>• Be documented;</li> <li>• Include timeframes; and</li> <li>• Provide information and status of process to complainant.</li> </ul> Costs for the lodging of a complaint must be minimal or reasonable
<b>External Dispute Resolution</b>	ACMA can refer to IIA or TIO under s514 of <i>Telecommunications Act</i> .
<b>Systemic Issues</b>	No process appears to be in place for reporting systemic issues.
<b>Code Development</b>	The IIA Spam Taskforce prepared a draft and opened it to wider consideration and comment from interested parties including consumer and government groups
<b>Code Oversight</b>	The Spam Taskforce Committee is open to all members of IIA
<b>Consumer representation</b>	No
<b>Code Chair</b>	No
<b>Code Review</b>	One year after registration, there may be Code Review by the Taskforce Committee with comments from the broader community. No review has been conducted.
<b>Public reports</b>	N/A
<b>Public naming of subscribers for non-compliance</b>	N/A Considering that there are already enforcement mechanisms which exist under law, vested in ACMA, IIA feels that it is unnecessary for IIA to undertake additional enforcement measures, such as public naming.
<b>Code promotion – industry body</b>	The IIA website has a Spam section.
<b>Code promotion – subscribers</b>	The Code requires ISPs to provide their customers with information about the Spam code and a link available to them on the ISPs website. In practice, this information and link is not provided by most ISPs.
<b>Complaints statistics</b>	IIA reports that in the time that the Codes have been in force they are not aware of any complaints directed to them from consumers in respect of compliance. Most complaints regarding spam are dealt with directly by the ACMA as breaches of the Act, not the code.
<b>Enforcement statistics</b>	N/A

## 6. E-Marketing Code of Practice

Name	E-Marketing Code
<b>Full name of the Code</b>	Australian E-Marketing Code of Practice
<b>URL</b>	<a href="http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/australian%20emarketing%20code%20of%20practice.pdf">http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/australian%20emarketing%20code%20of%20practice.pdf</a>
<b>Date</b>	March 2005
<b>Host</b>	A group of representatives from the e-marketing industry
<b>Regulator</b>	ACMA
<b>Status</b>	In force
<b>Registration Status</b>	Registered March 2006
<b>Binding</b>	Mandatory on all members of the e-marketing industry as listed in the Telecommunications Act 1997. It is also binding on further voluntary signatories who are able to nominate an EDR of their own choosing. All persons undertaking an e-marketing activity as defined under the Act.



Name	E-Marketing Code
<b>General purpose</b>	The code aims to: <ul style="list-style-type: none"> <li>• reduce the volume of unsolicited commercial electronic messages received by consumers</li> <li>• provide a plain English outline of how the Spam Act applies to current e-marketing practices</li> <li>• promote best practice use of commercial electronic messages in compliance with the Spam Act.</li> </ul>
<b>Jurisdiction</b>	Sending commercial electronic messages with an 'Australian Link' – A message has an Australian link if it originates or was commissioned in Australia, or originates overseas but has been sent to an address accessed in Australia.
<b>Eligible complainants</b>	The consumer who received the e-marketing or a person or organisation who has administrative power over their employee's electronic (email, instant messaging, telephone or similar) account.
<b>Register of subscribers - available</b>	Yes
<b>Register of subscribers – ease of use</b>	Easily accessible through the ACMA website
<b>Number of subscribers</b>	52 as of 2009
<b>Proportion of industry that subscribe</b>	No information on this was found
<b>Code compliance monitoring</b>	ACMA
<b>Enforcement</b>	ACMA can issue warnings and directions. Failure to comply attracts court action and pecuniary penalties.
<b>Internal Dispute Resolution</b>	The company that sent / authorised the material must have and keep records of any complaints according to Australian Standard - Complaints Handling 4269 - 1995. Complaints must not incur a charge greater than that of the complaint medium. Complaints must be acknowledged within 5 working days and resolved within 28 days or notified of expected timeframe.
<b>External Dispute Resolution</b>	Complaints can be referred to recognised industry bodies. These include the Australian Direct Marketing Association (ADMA), Advertising Federation of Australia (AFA), and Public Relations Institute of Australia (PRIA), which have required standards in their own EDR schemes regarding accessibility, independence, fairness, accountability and efficiency. If referred to an industry body, the body must contact the provider within 10 days stating issues at hand and requesting a response with respect to the issues within 14 days. If provider does not comply, then the matter will be referred to ACMA. However, the matter may be referred to ACMA if there isn't a relevant industry body or the complainants request at any stage. If breach is found, the provider has 10 days to identify and enact remedial actions with respect to the complaint, and future prevention.
<b>Systemic Issues</b>	ACMA assesses systemic issues internally
<b>Code Development</b>	The code was developed by a committee comprising representatives from peak industry associations, consumer groups, message service providers, government regulatory agencies and corporate business. However, there is no information on any requirements on code development.
<b>Code Oversight</b>	A 'code administration body', comprised of industry representatives, administers and monitors the code. ACMA monitors the compliance with the code
<b>Consumer representation</b>	No consumer organisations are directly represented in the code administrative body, but experienced consumer representatives are present in their private capacity.
<b>Code Chair</b>	There is an independent chair of the code administrative body.
<b>Code Review</b>	The code was required to be reviewed 12 months after registration. There does not appear to be any other requirements for independent review of the code. It is unclear whether the review took place.
<b>Public reports</b>	There is no requirement for public reports on code compliance
<b>Public naming of subscribers for non-compliance</b>	There does not appear to be a mechanism to name organisations regarding non-compliance
<b>Code promotion – industry body</b>	Key industry websites provide links to the code.

Name	E-Marketing Code
<b>Code promotion – subscribers</b>	Subscribers do not generally mention the code in their website, privacy policy, terms and conditions.
<b>Complaints statistics</b>	There do not appear to be any complaints statistics available.
<b>Enforcement statistics</b>	There do not appear to be any statistics regarding enforcement action in the last twelve months available.

## 7. The Australian Best Practice Guidelines for Online Behavioural Advertising

Name	OBA Guidelines
<b>Full name of the Code</b>	The Australian Best Practice Guidelines for Online Behavioural Advertising
<b>URL</b>	<a href="http://www.youronlinechoices.com.au/">http://www.youronlinechoices.com.au/</a>
<b>Date</b>	Commenced on 14 March 2011. However, there was a six month implementation phase for the industry to put in place arrangements
<b>Host</b>	Australian Digital Advertising Alliance (ADAA)
<b>Regulator</b>	None
<b>Status</b>	In force – but subject to a review before the end of 2011 and then on a regular basis following this initial review. Unclear whether this review has occurred.
<b>Registration Status</b>	Not registered
<b>Binding</b>	Voluntary
<b>General purpose</b>	<p>Third Party Online Behavioural Advertising (OBA) is when Web browsing activity or 'behavior' on an internet-enabled device is used to deliver advertisements to the users of that device across unrelated Websites. The Guideline aims to help participants deploy third party OBA in a way that builds community confidence and understanding in third party OBA.</p> <p>This is to be achieved through promoting transparency, consumer awareness and consumer choice in relation to the type of advertising consumers receives and encouraging good practice and accountability in businesses that deploy third party online behavioural advertising.</p> <p>Furthermore, in conjunction with the already existing Australian privacy law, the guideline is designed to ensure that individual privacy is not compromised.</p>
<b>Jurisdiction</b>	Not limited to Australian content - applies to those participants that are engaged in Third Party OBA including those parties that have Third Party OBA appearing on their Websites.
<b>Eligible complainants</b>	Individual consumers / web-users (drawn from the objective of the code)
<b>Register of subscribers - available</b>	The current signatories are listed in: <a href="http://www.youronlinechoices.com.au/about-adaa">http://www.youronlinechoices.com.au/about-adaa</a>
<b>Register of subscribers – ease of use</b>	The register is easily accessible to the public online
<b>Number of subscribers</b>	10
<b>Proportion of industry that subscribe</b>	Industry estimates that around 80% of the relevant sector is covered.
<b>Code compliance monitoring</b>	Signatories are responsible for self-certifying that they comply, which will also be monitored independently based on complaints received. There are no details available at this stage about independent monitoring.
<b>Enforcement</b>	<p>If the signatory fails to address a consumer's complaint, later upheld by the ADAA, the signatory in question will need to submit a plan to the relevant industry board as to how it will address the matter. It will then have three months to put the matter right. If it does not, the industry board will treat the matter as a breach of the Australian Best Practice Guideline for Online Behavioural Advertising and certain sanctions will apply, including the possible publication of the upheld complaint.</p> <p>Industry is considering the inclusion of a more formal and independent enforcement regime in the next version of the Guideline.</p>
<b>Internal Dispute Resolution</b>	Any complaint must first be assessed by <a href="http://youronlinechoices.com.au">youronlinechoices.com.au</a> to be valid before it is directed to the relevant signatory. The signatory must then address the matter within 20 working days (from the day <a href="http://youronlinechoices.com.au">youronlinechoices.com.au</a> , which is hosted by ADAA, sends the signatory the complaint).
<b>External Dispute Resolution</b>	N/A

Name	OBA Guidelines
<b>Systemic Issues</b>	No specified requirements to identify and address systemic issues
<b>Code Development</b>	Not specified
<b>Code Oversight</b>	There is no code advisory committee or similar oversight body – but there is an objective to develop one in the near future. In the interim, the ADAA oversees the Guideline.
<b>Consumer representation</b>	There is no formal consumer representation in oversight of the Guideline, although ADAA has consulted with consumer representatives regarding this issue and formal representation might be included in the next version.
<b>Code Chair</b>	There is no Chair.
<b>Code Review</b>	There is a requirement for independent review of the code regularly after the initial 6 months, but it is not stated how often future reviews will take place. It is unclear whether the first review has commenced.
<b>Public reports</b>	No specific requirements for public reports on code compliance are included. However, the principles mention a programme under the code that includes reporting on complaints. Industry plans to include a formal reporting requirement in the near future.
<b>Public naming of subscribers for non-compliance</b>	Yes – this may be a sanction applied by industry boards of the non-complying organisation
<b>Code promotion – industry body</b>	The ADAA has developed a consumer information website to educate consumers about online behavioural advertising, allowing them to find answers to the most frequently asked questions, discover how the technology works, and should they wish, how to manage their online advertising preferences with businesses that are signatories of the Guideline.
<b>Code promotion – subscribers</b>	Subscribers are supposed to mention on their websites that they comply to the 7 principles in the guideline according to Principle II(A)(1)(e) of the guideline.
<b>Complaints statistics</b>	Too new to be applicable (Note that the guideline includes a requirement to report on complaints)
<b>Enforcement statistics</b>	Too new to be applicable

## 8. IIA Family Friendly ISP Seal

Note that there is considerable crossover between this program and other IIA Codes of Practice.

Name	IIA Family Friendly Seal
<b>Full name of the Code</b>	IIA Family Friendly ISP Seal
<b>URL</b>	<a href="http://www.iaa.net.au/index.php?option=com_content&amp;task=view&amp;id=416&amp;Itemid=9#ff%20seal">http://www.iaa.net.au/index.php?option=com_content&amp;task=view&amp;id=416&amp;Itemid=9#ff%20seal</a>
<b>Date</b>	26 March, 2002
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	None
<b>Status</b>	In force Note: IIA advises that they do not consider this program to be a code – for their purposes it is a “member participation plan”.
<b>Registration Status</b>	N/A Some codes that are linked to this scheme have been registered by ACMA
<b>Binding</b>	Voluntary – binding on subscribers only
<b>General purpose</b>	The IIA Family Friendly Seal Program is designed to provide a visible symbol ('the ladybird seal'), which shows which Australian websites are compliant with IIA Codes. Under the IIA Codes, ISPs are required to provide their users with certain information, safety advice and the option of obtaining a family friendly content filter. The Family Friendly Seal program is therefore aimed to assist Internet users identify which ISPs have agreed to assist families with information and tools that will make the Internet experience safer for children.
<b>Jurisdiction</b>	The Family Friendly Seal applies to ISPs who provide access to users within Australia
<b>Eligible complainants</b>	Applies to any consumer of an ISP, but is specifically targeting families who require appropriate web content for children.

Name	IIA Family Friendly Seal
<b>Register of subscribers - available</b>	A register of subscribers is available on the IIA website.
<b>Register of subscribers – ease of use</b>	The register of subscribers appears in several places on the IIA website. However the list does not seem up-to-date with several ISPs displaying the Family Friendly Seal not listed on the IIA register. The number of subscribers also differs on different parts of the IIA website.
<b>Number of subscribers</b>	Somewhere between 9 and 13 according to the different registers published on the IIA website.
<b>Proportion of industry that subscribe</b>	Although there is no information regarding the proportion of ISPs that subscribe to the Family Friendly 'Ladybird' seal program, IIA claims that in terms of collective market share, over eight out of ten Internet users are now serviced by Family Friendly ISPs <sup>1</sup> . This claim has not been verified, and appears unlikely to be correct as Telstra Bigpond is not a subscriber (Telstra is estimated to have more than 40% market share).
<b>Code compliance monitoring</b>	<p>The IIA does not warrant that an ISP bearing the "IIA Family Friendly ISP" seal is necessarily compliant with IIA Codes, or those Internet users who choose that ISP will not access potentially offensive material online, even if provided with tools and information by a Code compliant ISP. However, by agreement with the IIA, and as a condition of use of the symbol, the ISP promises that they will follow the Codes and do those things that the Codes require of them</p> <p>ACMA monitors compliance with the IIA Codes. Complaints about non-compliance should be directed to ACMA.</p> <p>Where the ACMA notifies the IIA that a licensee is not in its view compliant with the relevant IIA Codes, the licensee has seven days to rectify the breach otherwise the license agreement terminates and the licensee must immediately cease using the seal or otherwise represent that it remains an IIA Family Friendly ISP.</p>
<b>Enforcement</b>	Failure to comply with the IIA Code can result in removal from the register of subscribers to the IIA Family Friendly Seal scheme and the removal of the seal from the ISP's website.
<b>Internal Dispute Resolution</b>	N/A
<b>External Dispute Resolution</b>	N/A
<b>Systemic Issues</b>	N/A
<b>Code Development</b>	N/A
<b>Code Oversight</b>	N/A
<b>Consumer representation</b>	N/A
<b>Code Chair</b>	N/A
<b>Code Review</b>	N/A
<b>Public reports</b>	N/A
<b>Public naming of subscribers for non-compliance</b>	N/A
<b>Code promotion – industry body</b>	Limited promotion by IIA.
<b>Code promotion – subscribers</b>	<p>Subscribers promote the Family Friendly Seal by displaying the ladybird logo on their website, with accompanying information that describes the scheme.</p> <p>Under the Licensing Agreement between IIA and subscribers, the subscriber must at all times display the Seal on its official ISP public website. The seal must also be accompanied with a hyperlink which directs the seal to the Designated Information Page. This Information page must fulfil the informational requirements of the IIA Codes, or link to this information which is located on the IIA website and provide users with information on how to obtain a scheduled filter.</p>
<b>Complaints statistics</b>	There have been no complaints from either ISPs or the public in respect of the Ladybird Seal Program.
<b>Enforcement statistics</b>	N/A

<sup>1</sup> <http://www.iaa.net.au/index.php/component/content/article/49/136-look-for-the-ladybird.html>

## 9. Australian Association of National Advertisers Code of Ethics

Name	AANA Code of Ethics
<b>Full name of the Code</b>	Australian Association of National Advertisers Code of Ethics
<b>URL</b>	<a href="http://www.aana.com.au/advertiser_ethics_code.html">http://www.aana.com.au/advertiser_ethics_code.html</a>
<b>Date</b>	1997
<b>Host</b>	Australian Association of National Advertisers Code of Ethics
<b>Regulator</b>	Advertising Standards Board (an industry self regulatory body)
<b>Status</b>	In force (the effective date of the latest version of the Code is January 1, 2012)
<b>Registration Status</b>	N/A
<b>Binding</b>	Voluntary self-regulatory code
<b>General purpose</b>	<p>The Code of Ethics provides overarching principles which all advertising and marketing communications should comply with. The aim of the Code is to enhance standards of advertising and marketing to promote ethical and responsible advertising. The code is accompanied by a detailed practice Note including case studies and examples.</p> <p>Note: The AANA administers other codes on more specific advertising issues such as environmental claims and marketing to children. These specific codes are not analysed in this Report, but they may also apply to online activity.</p>
<b>Jurisdiction</b>	<p>The Practice Note accompanying the Code sets out the jurisdiction:</p> <p>“All advertising or marketing communications with an Australian-customer link (i.e. if any or all of the customers of the product, service etc. are physically present in Australia).</p>
<b>Eligible complainants</b>	Mostly consumers. Competitors can complain about misleading advertising claims.
<b>Register of subscribers - available</b>	None
<b>Register of subscribers – ease of use</b>	N/A
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	The Code applies to all advertising and there is no requirement to subscribe to the Code or to be a member of the AANA.
<b>Code compliance monitoring</b>	<p>Compliance with the Code is enforced by the Advertising Standards Bureau which is an independent complaints handling and dispute resolution service. Complaints made to the Bureau are adjudicated by the Advertising Standards Board which is made up of individuals who represent the wider community.</p> <p>Compliance to the Code is achieved through a complaints-based system. The Board considers complaints received in light of the Code.</p> <p>Complaints can be completed online.</p>
<b>Enforcement</b>	<p>Following the Board’s determination, a draft case report is prepared, submitted and then forwarded to the advertiser/marketer. The advertiser/marketer is requested to advise the Board whether it agrees to modify or discontinue the advertising or marketing through an Advertiser Statement.</p> <p>If an advertising or marketing communication is found to breach the Code and the advertiser/marketer does not respond to the opportunity to modify or discontinue the advertising or marketing communication, the Board can:</p> <ul style="list-style-type: none"> <li>• Refer the case report to the appropriate government agency;</li> <li>• Include the advertiser/marketer’s failure to respond in the case report;</li> <li>• Forward the case report to media proprietors; and</li> <li>• Post the case report on the ASB’s website</li> </ul>
<b>Internal Dispute Resolution</b>	None

Name	AANA Code of Ethics
<b>External Dispute Resolution</b>	<p>If a complainant is unhappy about a Board determination regarding a particular advertisement, they may ask for a review of the determination. Reviews may be undertaken if the request is about at least one or all of the following grounds.</p> <ul style="list-style-type: none"> <li>• Where new or additional relevant evidence which could have a significant bearing on the determination becomes available. An explanation of why this information was not submitted previously must be provided; or</li> <li>• Where there was a substantial flaw in the Board's determination (determination clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence); or</li> <li>• Where there was a substantial flaw in the process by which the determination was made.</li> </ul> <p>An independent reviewer considers the request, investigating into the matter. The reviewer will recommend that the Board's determination be confirmed, or that the matter be referred back to the Board for review.</p>
<b>Systemic Issues</b>	<p>The Advertising Standards Board examines specific areas that require further investigation as a result of complaints. For example, the ASB regularly publish Research Reports such as the 2010 report on community perceptions of sex, sexuality and nudity in advertising.</p>
<b>Code Development</b>	<p>The Code was developed many years ago and was the subject of public consultation at the time.</p> <p>Independent Code review include public consultation.</p>
<b>Code Oversight</b>	<p>The Advertising Standards Board oversees the resolution of complaints. The Board meets twice a month to consider complaints and either dismiss or uphold the complaints made.</p>
<b>Consumer representation</b>	<p>The Advertising Standards Board does not have specific consumer group representation; however the Board is composed of twenty individuals from a broad range of age groups and backgrounds that do not represent any particular interest group. The diverse nature of the Board allows for various consumer interest and views to be taken into account.</p>
<b>Code Chair</b>	<p>There is no independent chair of the Advertising Standards Board; the position of the Chair is rotated amongst Board members on a meeting by meeting basis.</p>
<b>Code Review</b>	<p>In 2010 the AANA published a discussion paper in view of receiving submissions from the public on a review of the <i>Code of Ethics</i>. The AANA sought to update and develop the Code to ensure it continued to meet community requirements and expectations. Submissions received assisted the Independent Code Reviewer in preparing a report on the review, including recommendations for revisions to the <i>Code of Ethics</i>, for consideration by the AANA Board.</p> <p>Following this process, a new Code was developed and this became effective on 1 January 2012. Reviews are conducted approximately every three years unless significant issues arise in the interim period.</p>
<b>Public reports</b>	<p>Within 10 business days of the Board's decision in regards to a specific complaint, all finalised case reports are made publicly available.</p>
<b>Public naming of subscribers for non-compliance</b>	<p>If an advertising or marketing communication does not comply with the request to modify or discontinue the advertising or marketing communication, the Board can publicly name the advertiser/marketing communicator by</p> <ul style="list-style-type: none"> <li>• Including the advertiser/marketer's failure to respond in the case report and post this case report on the ASB's website; and</li> <li>• Forwarding the case report to media proprietors</li> </ul>
<b>Code promotion – industry body</b>	<p>There are no specific promotion of the code. However, the Advertising Standards Bureau has launched a public awareness Campaign in August 2011, aimed at increasing community awareness of the role of the Bureau and the Advertising Standards Board and confirming that the ASB is the place to lodge complaints about advertisements.</p>
<b>Code promotion – subscribers</b>	<p>N/A</p>
<b>Complaints statistics</b>	<p>In 2010, the Board considered 491 advertisements. Although there were a total of 521 complaints received, 29 of these advertisements were withdrawn by advertisers before Board consideration. The total number of complaints received in 2010 totalled 3,526.</p> <p>A total of 1,692 complaints against 442 ads were dismissed. There were 361 complaints about 49 advertisements which were found to breach the Code.</p> <p>Of these complaints, only 7.55% were related to internet advertising. This was a jump from 2009 where only 2.58% of complaints related to internet advertising.</p>
<b>Enforcement statistics</b>	<p>In 2010, when complaints about advertisements were upheld by the Board, practically 100% were removed from broadcast or publication or modified. The Advertising Standards Bureau attributed this extremely high level of compliance with Board decisions with the high level of support and understanding within the advertising industry of the obligations and responsibilities of adherence to the Code of Ethics.</p>

## 10. iCode

Name	iCode (formerly known as e-Security Code for ISPs)
<b>Full name of the Code</b>	Internet Service Providers Voluntary Code of Practice for Industry Self-Regulation in the Area of Cyber Security
<b>URL</b>	<a href="http://www.icode.net.au/">http://www.icode.net.au/</a>
<b>Date</b>	1st of December 2010
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	IIA
<b>Status</b>	In force and will be formally reviewed within 18 months from the date of implementation.
<b>Registration Status</b>	Not registered.
<b>Binding</b>	Voluntary
<b>General purpose</b>	This Code is designed to provide a consistent approach for Australian ISPs to help inform, educate and protect their customers in relation to cyber security risks as well as to help improve cyber security for all consumers, due to the increasing threat of zombie computers – computers which have been hijacked by computer viruses. Identity theft, fraud, and increases in spam are all possible consequences of compromised computers, this code is to assist those customers who experience repeated compromises to their computers and develop a strategy to minimise the effect of such compromises to other customers on the ISP's network.
<b>Jurisdiction</b>	Australian ISP's
<b>Eligible complainants</b>	There is no complaint system for this Code, but contraventions by ISPs may result in breach of related legislative obligations (eg. providing reasonable assistance as required under the Telecommunications Act 1997 (Cth))
<b>Register of subscribers - available</b>	Yes
<b>Register of subscribers – ease of use</b>	The register of subscribers is easy to find, through the iCode website: <a href="http://www.icode.net.au/index.php">http://www.icode.net.au/index.php</a>
<b>Number of subscribers</b>	32
<b>Proportion of industry that subscribe</b>	Appears to represent a small proportion of the sector.
<b>Code compliance monitoring</b>	IIA
<b>Enforcement</b>	There are no sanctions. IIA does not consider any enforcement mechanism in a voluntary scheme is necessary.
<b>Internal Dispute Resolution</b>	N/A
<b>External Dispute Resolution</b>	There is no information regarding EDR.
<b>Systemic Issues</b>	Not mentioned
<b>Code Development</b>	Unclear.
<b>Code Oversight</b>	None
<b>Consumer representation</b>	Not mentioned
<b>Code Chair</b>	Not mentioned
<b>Code Review</b>	This Code will be formally reviewed within 18 months from the date of implementation

## 11. IIA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content

Note: This code overlaps with legislation and other IIA codes.

Name	IIA Content Code 2005
<b>Full name of the Code</b>	IIA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content 2005 – also known as IIA Content Code 2005
<b>URL</b>	<a href="http://iia.net.au/images/resources/pdf/iia_code_2005.pdf">http://iia.net.au/images/resources/pdf/iia_code_2005.pdf</a>
<b>Date</b>	May 2005
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	ACMA
<b>Status</b>	The more recent IIA Content Services Code of Practice (2008) covers most areas of content regulation that is within the 2005 version. However part of the 2005 Code is still relevant as the only code that is registered pursuant to Schedule 5 of the Broadcasting Services Act (Cth) 1992 ('BSA'). The relevant section in the 2005 Code is Content Code 3 (Providing Access to Content Hosted Outside Australia).
<b>Registration Status</b>	Registered by ACMA [date unknown]
<b>Binding</b>	Although compliance with an industry code is voluntary, ACMA may direct a particular participant in the internet industry to comply with the Code. It should also be noted that the Broadcasting Services Act (Cth) 1992 requires the ACMA to take certain action unless there is a code in place that contains a procedure for dealing with overseas based Content. CI19 (Content Code 3) sets out the mechanism by which overseas based content may be dealt with.
<b>General purpose</b>	The general purpose of this Code is to regulate internet content available to end users in Australia. The relevance of this Code exists in its regulation of content hosting which occurs outside of Australia. The Code outlines the notification scheme to notify suppliers of IIA Family Friendly Filters with information on prohibited or potentially prohibited content. It also requires an ISP to make available the use of IIA Family Friendly Filters for charge.
<b>Jurisdiction</b>	Content Code 3 (Providing Access to Content Hosted Outside Australia) of the 2005 Code applies to content posted abroad.
<b>Eligible complainants</b>	The Code covers all end-users.
<b>Register of subscribers - available</b>	The IIA maintains a public register of IIA Family Friendly Filters and all ISPs and Mobile Carriers who comply with the Family Friendly Program. This list is accessible from the IIA's home page.
<b>Register of subscribers – ease of use</b>	A register of the subscribers to the Code does not seem to be available, however a list of subscribers to the IIA's Family Friendly Seal Program is easily found on the IIA's website.
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	N/A
<b>Code compliance monitoring</b>	The ACMA may communicate with IIA Family Friendly Filter providers to notify them of any prohibited or potentially prohibited materials. This is to be done through email or other means of direct notification. This ensures compliance with the Code in a preventative manner.
<b>Enforcement</b>	Under the BSA, the ACMA has the power to investigate complaints relating to Prohibited or Potential Prohibited Content and to monitor compliance of the Code. Non-compliance with the Code may be subject to a range of penalties under the Act.
<b>Internal Dispute Resolution</b>	N/A
<b>External Dispute Resolution</b>	N/A
<b>Systemic Issues</b>	N/A
<b>Code Development</b>	This Code has been reviewed, which led to the more recent 2008 IIA Content Services Code. The 2008 Code followed a 30-day public consultation. However, the original 2005 Content Code 3 remains in force.
<b>Code Oversight</b>	The IIA oversees the implementation and development of the Code.
<b>Consumer representation</b>	N/A
<b>Code Chair</b>	N/A
<b>Code Review</b>	S21 states that the Code will be formally reviewed within 12 months from the date of implementation.
<b>Public reports</b>	N/A



Name	IIA Content Code 2005
Public naming of subscribers for non-compliance	N/A
Code promotion – industry body	As the Code has largely been replaced by the 2008 IIA Code there is very little promotion of the 2005 Code. However the 2005 Code is still readily available on the IIA website.
Code promotion – subscribers	N/A
Complaints statistics	N/A
Enforcement statistics	N/A

## 12. IIA Responsible Internet Business Program – 10 Point User Protection Code of Ethics

Name	10 Point User Protection Code of Ethics
Full name of the Code	Responsible Internet Business Program – 10 Point User Protection Code of Ethics
URL	<a href="http://iia.net.au/index.php/initiatives/responsible-internet-businesses.html">http://iia.net.au/index.php/initiatives/responsible-internet-businesses.html</a>
Date	2011
Host	Internet Industry Association (IIA)
Regulator	N/A
Status	In force
Registration Status	N/A
Binding	Binding on voluntary subscribers.
General purpose	<p>The purpose of the code of ethics is to reinforce the key values and ideals that internet business should adhere to. These include:</p> <ul style="list-style-type: none"> <li>• Respecting the privacy of end users through non-disclosure of personal information in the absence of consent and non-disclosure of personal information other than as required by law to third parties and agencies</li> <li>• Implementing appropriate security measures concerning: storage of commercial and personal information, using current industry practices for online transactions and taking reasonable steps to ensure that IT facilities are not prone to viruses and other malware.</li> <li>• Refraining from sending spam and enabling customers to opt out from receiving future email communications</li> <li>• Respecting legitimate consumer rights by publishing on the website the returns, refunds, postage and handling and other relevant policies as well as providing on the website a contact point for customer complaints</li> </ul>
Jurisdiction	Australian Internet businesses
Eligible complainants	End users who would predominately be customers
Register of subscribers - available	Yes
Register of subscribers – ease of use	The register of subscribers is easy to find, through the IIA website: <a href="http://iia.net.au/index.php/initiatives/748-businesses-of-the-responsible-internet-business-program.html">http://iia.net.au/index.php/initiatives/748-businesses-of-the-responsible-internet-business-program.html</a>
Number of subscribers	23
Proportion of industry that subscribe	The proportion of organisations that have subscribed to the code is extremely small, as the code can potentially apply to any online business in Australia.
Code compliance monitoring	Not stated
Enforcement	Not stated
Internal Dispute Resolution	N/A
External Dispute Resolution	N/A
Systemic Issues	N/A
Code Development	No information available

Name	10 Point User Protection Code of Ethics
Code Oversight	The IIA oversees the development of the Code
Consumer representation	N/A
Code Chair	N/A
Code Review	Not stated.
Public reports	N/A
Public naming of subscribers for non-compliance	N/A
Code promotion – industry body	The IIA promotes the code on its website.
Code promotion – subscribers	Some members use the code logo on their individual sites.
Complaints statistics	N/A
Enforcement statistics	N/A

### 13. Australian Group Buying Code of Conduct

Name	Group Buying Code of Conduct
Full name of the Code	Australian Group Buying Code of Conduct
URL	<a href="http://adma.com.au/regulatory/group-buying-code-of-practice/">http://adma.com.au/regulatory/group-buying-code-of-practice/</a>
Date	November 2011
Host	The Code was jointly developed by the Australian Direct Marketing Association (ADMA) and the Australian Interactive Media Industry Association (AIMIA)
Regulator	N/A
Status	In force
Registration Status	Not registered
Binding	Voluntary
General purpose	The general purpose of the code is to: ensure that consumers (subscribers) have access to relevant product and service information to enable them to make informed choices; promote compliance within the industry with laws such as <i>Competition and Consumer Act 2010</i> , <i>Privacy Act 1988</i> and <i>Spam Act 2003</i> ; promote fair, honest and ethical best practice and also increase consumer confidence in dealing with the group buying industry.
Jurisdiction	Australian group buying platforms
Eligible complainants	Consumers
Register of subscribers - available	Yes
Register of subscribers – ease of use	The register was easily accessible
Number of subscribers	8
Proportion of industry that subscribe	Appears to represent a high proportion of the industry at this stage.
Code compliance monitoring	N/A
Enforcement	If the Code Authority finds that a Signatory has been in breach of the Code it may impose sanctions such as: formal apology, corrective advertising, correction or deletion of relevant records and personal information, refund or replacement, written undertaking and recommending to the Group Buying Code Committee that the Signatory status be suspended or revoked.
Internal Dispute Resolution	Initially, the consumer should attempt to resolve their complaint with the group buying site. The group buying platform should acknowledge receipt of complaints promptly within five working days, have clear and effective procedures for handling complaints and to resolve complaints reasonably promptly.

Name	Group Buying Code of Conduct
<b>External Dispute Resolution</b>	If the complaint is not resolved to the consumer's satisfaction, a complaint may be made to the ADMA Code Authority. Complaints are encouraged to be lodged via the ADMA website or by postal mail. The Code Authority officer will assess each complaint to determine if a breach had occurred and if it appears that the Signatory may have breached the code the officer would send the complaint to the Signatory. Signatories must respond to complaints within 15 days. If the Signatory does not respond within 15 days or the matter is not resolved, the officer would refer the matter to the Code Authority. The Code Authority may direct the officer to investigate the complaint further or invite the Signatory to attend a hearing to present its case regarding the alleged breach.
<b>Systemic Issues</b>	ADMA Code Authority will publish an annual report which will include a statistical analysis of complaints by each signatory as well as the number of complaints received by the code compliance officer during the year.
<b>Code Development</b>	N/A
<b>Code Oversight</b>	N/A
<b>Consumer representation</b>	N/A
<b>Code Chair</b>	N/A
<b>Code Review</b>	The Code will be reviewed 12 months after its implementation.
<b>Public reports</b>	The ADMA Code Authority will publish an annual report which would include the number of breaches established by the Code compliance officers and Code Authority during that year.
<b>Public naming of subscribers for non-compliance</b>	The CEO of ADMA may, on recommendation of the Code Authority, issue a formal written admonishment to the non-compliant signatory which may be public.
<b>Code promotion – industry body</b>	ADMA has promoted the Code in the general media.
<b>Code promotion – subscribers</b>	Signatories display a Code logo which links to information about the Code and the complaints process.
<b>Complaints statistics</b>	N/A
<b>Enforcement statistics</b>	N/A

#### 14. Internet Industry Privacy Code of Practice (DRAFT)

Name	Privacy Code
<b>Full name of the Code</b>	Internet Industry Privacy Code of Practice
<b>URL</b>	<a href="http://www.iaa.net.au/images/resources/pdf/iaa_privacycodeeudraft.pdf">http://www.iaa.net.au/images/resources/pdf/iaa_privacycodeeudraft.pdf</a>
<b>Date</b>	14 August 2001
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	The appropriate regulator would be the OAIC.
<b>Status</b>	Draft – the code has been the subject of a lengthy development and consultation period. We note there is movement in the space again with the ALRC recommendations under consideration, so it may be that the IIA would be prepared to restart work on a revised privacy code to meet any new requirements that it felt may be better addressed by a code rather than in law. The IIA advises that the current draft of the Code is likely to be the subject of a review prior to any potential re-submission to the regulator. The information in this table is based on the 2001 draft.
<b>Registration Status</b>	Unregistered - the Code is in the consultation phase. The appropriate regulator would be the OAIC, who have the power to register codes under the Privacy Act.
<b>Binding</b>	Registered privacy codes can only be voluntary as per the requirements of the Privacy Act.

Name	Privacy Code
<b>General purpose</b>	To assist members in meeting the Privacy Act requirements. <ul style="list-style-type: none"> <li>to facilitate the protection of Personal Information;</li> <li>to bridge any discrepancies between the privacy compliance requirements in Australia and those in the European Union, allowing trade with EU citizens;</li> <li>to enhance the protection of Personal Information from or about children;</li> <li>to restrict online direct marketing to those individuals who have expressly consented to receive it ; and</li> <li>to allow IIA member small business operators who are otherwise not subject to the Privacy Act to benefit from compliance with industry best practice in relation to the collection and use of Personal Information.</li> </ul>
<b>Jurisdiction</b>	Uncertain at this stage.
<b>Eligible complainants</b>	Consumers.
<b>Register of subscribers - available</b>	There is no register of subscribers available as the Code is not in force yet. However a register is proposed in the Code.
<b>Register of subscribers – ease of use</b>	N/A
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	N/A
<b>Code compliance monitoring</b>	N/A
<b>Enforcement</b>	Failure to comply with the code can result in removal from the register of subscribers.
<b>Internal Dispute Resolution</b>	Code Subscribers must ensure that they have in place publicly available procedures for dealing with complaints from inception to satisfaction or determination which comply with the Australian Standard on Complaints Handling AS 4269-1995. AS 4269-1995 is required to be available to any individual about whom Personal Information is processed. This is a very general provision.
<b>External Dispute Resolution</b>	Either the subscriber or the complainant can refer a complaint to the Privacy Commissioner
<b>Systemic Issues</b>	N/A
<b>Code Development</b>	Amendments provided for through consultation and approval.
<b>Code Oversight</b>	The IIA code administrator
<b>Consumer representation</b>	Public and consumer group consultation required through the independent review panel.
<b>Code Chair</b>	Provided for in the Code
<b>Code Review</b>	Independent code review panel provided for within 3 years of registration.
<b>Public reports</b>	N/A
<b>Public naming of subscribers for non-compliance</b>	Not mentioned.
<b>Code promotion – industry body</b>	IIA website carries basic code material.
<b>Code promotion – subscribers</b>	Subscribers must display an approved designation and a link on their website
<b>Complaints statistics</b>	Required to be compiled by the independent review panel within 3 years of registration.
<b>Enforcement statistics</b>	N/A

## 15. IIA Industry Copyright Code (DRAFT)

<b>Name</b>	<b>Short Name of the Code</b>
<b>Full name of the Code</b>	IIA Industry Copyright Code
<b>URL</b>	<a href="http://www.iaa.net.au/index.php/all-members/881-iaa-fastracks-industry-copyright-code.html">http://www.iaa.net.au/index.php/all-members/881-iaa-fastracks-industry-copyright-code.html</a>
<b>Date</b>	The Code is still a proposed Code.
<b>Host</b>	Internet Industry Association (IIA)
<b>Regulator</b>	N/A
<b>Status</b>	Proposed
<b>Registration Status</b>	N/A
<b>Binding</b>	N/A
<b>General purpose</b>	Recent litigation regarding online copyright enforcement has provided some guidance to Internet intermediaries about their rights and responsibilities in relation to copyright enforcement, but some degree of uncertainty remains. The Code aims to address this by defining the reasonable steps that intermediaries should take in responding to allegations of infringement by their users.
<b>Jurisdiction</b>	N/A
<b>Eligible complainants</b>	N/A
<b>Register of subscribers - available</b>	N/A
<b>Register of subscribers – ease of use</b>	N/A
<b>Number of subscribers</b>	N/A
<b>Proportion of industry that subscribe</b>	N/A
<b>Code compliance monitoring</b>	N/A
<b>Enforcement</b>	N/A
<b>Internal Dispute Resolution</b>	N/A
<b>External Dispute Resolution</b>	N/A
<b>Systemic Issues</b>	N/A
<b>Code Development</b>	N/A
<b>Code Oversight</b>	N/A
<b>Consumer representation</b>	N/A
<b>Code Chair</b>	N/A
<b>Code Review</b>	N/A
<b>Public reports</b>	N/A
<b>Public naming of subscribers for non-compliance</b>	N/A
<b>Code promotion – industry body</b>	N/A
<b>Code promotion – subscribers</b>	N/A
<b>Complaints statistics</b>	N/A
<b>Enforcement statistics</b>	N/A

## 16. Best Practice Guidelines for Dating Websites

Name	Best Practice Guidelines for Dating Websites
Full name of the Code	Best Practice Guidelines for Dating Websites
URL	<a href="http://www.accc.gov.au/">http://www.accc.gov.au/</a>
Date	The date of the current draft is 30 November 2011
Host	Australian Competition and Consumer Commission
Regulator	Australian Competition and Consumer Commission
Status	Draft
Registration Status	N/A
Binding	At this stage it is unclear whether the code will be automatically binding or if organisations will have to subscribe.
General purpose	The general purpose of the best practice guidelines is to seek to protect Australian consumers by providing a set of actions for implementation by dating and romance website operators to improve their response to dating and romance scams.
Jurisdiction	Australian dating and romance websites
Eligible complainants	Users
Register of subscribers - available	N/A
Register of subscribers – ease of use	N/A
Number of subscribers	N/A
Proportion of industry that subscribe	N/A
Code compliance monitoring	N/A
Enforcement	N/A
Internal Dispute Resolution	Dating and romance websites should set up mechanisms for users to report suspicious conduct within the website and may also provide 'live help' to respond directly to affected users via chat, instant messaging, voice over Internal protocol or other methods.  The operator should also implement a referral process which advises users to report the scammer to the website operator first. The website operator should investigate the profile alleged to be engaging in scam activity, take appropriate action and respond to the complaint of scam activity by the end of the next business day.
External Dispute Resolution	Alternatively, the user may report the scam to the ACCC SCAMwatch website.
Systemic Issues	Dating and romance websites should collect data on complaints about scams to monitor effectiveness of their anti-scam measures and update when necessary.
Code Development	N/A
Code Oversight	N/A
Consumer representation	N/A
Code Chair	N/A
Code Review	N/A
Public reports	N/A
Public naming of subscribers for non-compliance	N/A
Code promotion – industry body	N/A
Code promotion – subscribers	N/A
Complaints statistics	N/A
Enforcement statistics	N/A

#### 4. Appendix 2 – Code Coverage – Popular Websites

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*This appendix describes code coverage for popular websites in Australia.*

Completed codes:

Code 1	Telecommunications Consumer Protection Code <a href="http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/c628_2007.pdf">http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/c628_2007.pdf</a>
Code 2	ePayments Code <a href="http://www.asic.gov.au/">http://www.asic.gov.au/</a>
Code 3	Content Services Code <a href="http://www.iaa.net.au/index.php/section-blog/87.html?layout=default">http://www.iaa.net.au/index.php/section-blog/87.html?layout=default</a>
Code 4	e-Marketing Code of practice <a href="http://www.acma.gov.au/WEB/STANDARD/pc=PC_310326">http://www.acma.gov.au/WEB/STANDARD/pc=PC_310326</a>
Code 5	The Internet Industry Spam code of practice <a href="http://www.acma.gov.au/WEB/STANDARD/pc=PC_310325">http://www.acma.gov.au/WEB/STANDARD/pc=PC_310325</a>
Code 6	Interactive Gambling industry Code <a href="http://www.dbcde.gov.au/broadband/online_gambling/interactive_gambling_industry_code">http://www.dbcde.gov.au/broadband/online_gambling/interactive_gambling_industry_code</a>
Code 7	IIA Family Friendly ISP Seal <a href="http://www.iaa.net.au/index.php?option=com_content&amp;task=view&amp;id=416&amp;Itemid=9#ff%20seal">http://www.iaa.net.au/index.php?option=com_content&amp;task=view&amp;id=416&amp;Itemid=9#ff%20seal</a>
Code 8	iCode (E-Security Code for ISPs) <a href="http://icode.net.au/">http://icode.net.au/</a>
Code 9	Australian Association of National Advertisers Code of Ethics <a href="http://www.aana.com.au/advertiser_ethics_code.html">http://www.aana.com.au/advertiser_ethics_code.html</a>
Code 10	The Australian Best Practice Guidelines for Online Behavioural Advertising <a href="http://www.youronlinechoices.com.au/">http://www.youronlinechoices.com.au/</a>
Code 11	IIA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content <a href="http://iaa.net.au/images/resources/pdf/iaa_code_2005.pdf">http://iaa.net.au/images/resources/pdf/iaa_code_2005.pdf</a>
Code 12	IIA, Responsible Internet Business Program - 10 Point User Protection Code of Ethics <a href="http://iaa.net.au/index.php/initiatives/responsible-internet-businesses.html">http://iaa.net.au/index.php/initiatives/responsible-internet-businesses.html</a>
Code 13	Australian Group Buying Code of Conduct <a href="http://adma.com.au/regulatory/group-buying-code-of-practice/">http://adma.com.au/regulatory/group-buying-code-of-practice/</a>

## Coverage table 1

The first column lists the Top 50 Australian visited websites as of 28<sup>th</sup> July, 2011  
(source: <http://www.alexa.com>).

Entries are:

Subscriber (S), Non-Subscriber (N), Automatically covered (A), Not applicable (N/A)

Website	Code 1	Code 2	Code 3	Code 4	Code 5	Code 6 <sup>2</sup>	Code 7	Code 8	Code 9	Code 10	Code 11	Code 12	Code 13
Google Australia <a href="http://www.google.com.au">www.google.com.au</a>	N/A	N/A	N/A <sup>3</sup>	N/A	A	N/A	N/A	N/A	N/A	S	N/A	N	N/A
Facebook <a href="http://www.facebook.com">www.facebook.com</a>	N/A	N/A	N/A	N/A	A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Google <a href="http://www.google.com">www.google.com</a>	N/A	N/A	N/A	N/A	A	N/A	N/A	N/A	N/A	S	N/A	N	N/A
YouTube <a href="http://www.youtube.com">www.youtube.com</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Yahoo! <a href="http://www.yahoo.com">www.yahoo.com</a>	N/A	N/A	N/A	N/A	A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
eBay.com.au <a href="http://www.ebay.com.au">www.ebay.com.au</a>	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Windows Live <a href="http://www.live.com">www.live.com</a>	N/A	N/A	N/A	N/A	A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Wikipedia <a href="http://www.wikipedia.com">www.wikipedia.com</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Blogger.com <a href="http://www.blogspot.com">www.blogspot.com</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
News.com.au <a href="http://www.news.com.au">www.news.com.au</a>	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Twitter <a href="http://www.twitter.com.au">www.twitter.com.au</a>	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
LinkedIn <a href="http://www.linkedin.com">www.linkedin.com</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Ninemsn <a href="http://www.ninemsn.com.au">www.ninemsn.com.au</a>	N/A	N/A	A	N/A	A	N/A	N/A	N/A	N/A	S	N/A	N	N/A
Commonwealth Bank <a href="http://www.commbank.com.au">www.commbank.com.au</a>	N/A	S	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Sydney Morning Herald <a href="http://www.smh.com.au">www.smh.com.au</a>	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
PayPal <a href="http://www.paypal.com">www.paypal.com</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Amazon.com <a href="http://www.amazon.com.au">www.amazon.com.au</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
WordPress.com <a href="http://www.wordpress.com">www.wordpress.com</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
ANZ Banking Group <a href="http://www.anz.com">www.anz.com</a>	N/A	S	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Westpac Banking Corp. <a href="http://www.westpac.com.au">www.westpac.com.au</a>	N/A	S	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Real Estate Australia <a href="http://www.realestate.com.au">www.realestate.com.au</a>	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	S	N/A	N	N/A
The ABC <a href="http://www.abc.net.au">www.abc.net.au</a>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
National Australia Bank <a href="http://www.national.com.au">www.national.com.au</a>	N/A	S	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A

<sup>2</sup> Only applies to ISPs (s4, *Interactive Gambling Industry Code*, 2001)

<sup>3</sup> Exempt internet search engine service under Schedule 7, Clause 2 definitions, *Broadcasting Services Act 1992* (Cth)



Website	Code 1	Code 2	Code 3	Code 4	Code 5	Code 6 <sup>2</sup>	Code 7	Code 8	Code 9	Code 10	Code 11	Code 12	Code 13
The Age www.theage.com.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Apple Inc. www.apple.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
The Internet Movie Database www.imdb.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
SEEK www.seek.com.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Flickr www.flickr.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
eBay www.ebay.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Microsoft Corporation www.microsoft.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	S	N/A	N	N/A
Tumblr www.tumblr.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Gumtree www.gumtree.com.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Domain.com.au www.domain.com.au	N/A	N/A	A	S	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
The Warrior Forum www.warriorforum.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Bing www.bing.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
AWeber Systems www.aweber.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Whirlpool Broadband News www.whirlpool.net.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
BBC Online www.bbc.co.uk	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
WordPress www.wordpress.org	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Bureau of Meteorology www.bom.gov.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Googleusercontent.com www.googleusercontent.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
The Pirate Bay www.thepiratebay.org	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
About www.about.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
NSW Government www.nsw.gov.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
St George Bank www.stgeorge.com.au	N/A	S	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Carsales.com.au www.carsales.com.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Go Daddy www.godaddy.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
Victoria Online www.vic.gov.au	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
Jigsaw furniture www.jigsawfurniture.com.au	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A
LiveJasmin.com www.livejasmin.com	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A	N	N/A

Many codes are not applicable to many of these web sites. Where they are applicable and coverage is not automatic, subscription rates are variable and often low.

## 5. Appendix 3 – Code Coverage – Popular ISPs

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*This appendix describes code coverage for popular ISPs in Australia.*

### Completed codes

This list includes target codes that are relevant to ISPs:

Code 1	Telecommunications Consumer Protection Code <a href="http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/c628_2007.pdf">http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/c628_2007.pdf</a>
Code 2	Content Services Code <a href="http://www.iaa.net.au/index.php/section-blog/87.html?layout=default">http://www.iaa.net.au/index.php/section-blog/87.html?layout=default</a>
Code 3	The Internet Industry Spam code of practice <a href="http://www.acma.gov.au/WEB/STANDARD/pc=PC_310325">http://www.acma.gov.au/WEB/STANDARD/pc=PC_310325</a>
Code 4	Interactive Gambling industry Code <a href="http://www.dbcde.gov.au/broadband/online_gambling/interactive_gambling_industry_code">http://www.dbcde.gov.au/broadband/online_gambling/interactive_gambling_industry_code</a>
Code 5	IAA Family Friendly ISP Seal <a href="http://www.iaa.net.au/index.php?option=com_content&amp;task=view&amp;id=416&amp;Itemid=9#ff%20seal">http://www.iaa.net.au/index.php?option=com_content&amp;task=view&amp;id=416&amp;Itemid=9#ff%20seal</a>
Code 6	iCode (E-Security Code for ISPs) <a href="http://icode.net.au/">http://icode.net.au/</a>
Code 7	IAA Codes for Industry Co-Regulation in Areas of Internet and Mobile Content <a href="http://iaa.net.au/images/resources/pdf/iaa_code_2005.pdf">http://iaa.net.au/images/resources/pdf/iaa_code_2005.pdf</a>

## Coverage table 2

The following table shows the coverage of the seven relevant codes amongst the 19 largest ISPs in Australia. The list is based on an estimate of market share from 2009-2010<sup>4</sup> and may not be absolutely accurate today, but it should still represent the most significant ISPs.

Entries are: Automatically covered (A), Subscriber signed on (S), Not subscribed (N).

ISPs	Code 1	Code 2	Code 3	Code 4	Code 5	Code 6	Code 7
Telstra	A	A	A	A	N	S	A
Optus	A	A	A	A	S	S	A
TPG	A	A	A	A	N	N	A
iiNet	A	A	A	A	S	S	A
Westnet	A	A	A	A	S	N	A
AAPT	A	A	A	A	N	S	A
3 Internet	A	A	A	A	N	N	A
Dodo	A	A	A	A	N	N	A
Internode	A	A	A	A	N	S	A
iPrimus	A	A	A	A	N	N	A
Exetel	A	A	A	A	N	N	A
Netspace	A	A	A	A	N	N	A
Unwired	A	A	A	A	N	S	A
Primus	A	A	A	A	N	S	A
Virgin	A	A	A	A	S	N	A
Adam	A	A	A	A	N	N	A
Chariot	A	A	A	A	N	N	A
TADAust	A	A	A	A	N	N	A
Vodafone	A	A	A	A	N	N	A

Where ISP coverage is automatic, the level of coverage is naturally high. Where ISP coverage is by signing on, the level of coverage is low, with 4 and 7 of the 19 signing on to Codes 5 and 6.

We did not seek information about the level of internal awareness or compliance with codes. It would be interesting to explore the degree to which staff at ISPs, or other web site companies in the table above, who were covered by a code via automatic membership were aware of the coverage and compliance needs of each such code.

<sup>4</sup> Estimated ISP Market Share, 2009-2010: <http://thebernoullitrial.wordpress.com/2010/08/07/australian-isp-market-share-2009-2010/>

## 6. Appendix 4 – Best Practice Guidelines

Best practice guidelines have been developed by four Commonwealth regulatory agencies to assist in the framing of codes. These are set out below. There are a common core of similar criteria in these guides, and these form the basis of our comparative assessments of the codes.

The four guides are as follows:

1. ACCC, *Guidelines for developing effective voluntary industry codes of conduct* (2005)  
<http://www.accc.gov.au/content/index.phtml/itemId/658186>
2. ACMA, *Developing Telecommunications Codes for Registration: A Guide* (2003)  
[http://www.acma.gov.au/webwr/telcomm/industry\\_codes/codes/codes.pdf](http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/codes.pdf)
3. ASIC, *Regulatory Guide 183 - Approval of financial services sector codes of conduct* (2007)  
[http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/\\$file/ps183.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/$file/ps183.pdf)
4. Office of the Australian Information Commissioner, *Privacy Code Development Guide* (September 2001, originally published by the then Office of the Federal Privacy Commissioner)  
<http://www.privacy.gov.au/materials/types/guidelines/view/6482>

As can be seen from the comparative table below summarising these criteria, not all guides cover all criteria; where they overlap, they are largely consistent at a high level, with some differences in detail.

Criteria	ACCC	ACMA	ASIC	OAIC
<b>Binding</b>	ACCC Guidelines refer to voluntary industry codes of conduct.	N/A	N/A	OAIC Guidelines state that the OAIC can only approve voluntary codes.
<b>Jurisdiction</b>	N/A	The jurisdiction of the code must be clearly stated.	A code should set enforceable standards across an industry or part of an industry.	N/A
<b>Eligible complainants</b>	N/A	N/A	N/A	N/A
<b>Register of subscribers - available</b>	An effective code should incorporate strategies to raise consumer's awareness and this may be achieved through a published list of code signatories.	N/A	N/A	In most situations, the commissioner requires the code administrator to provide accurate, up to date and an easily accessible record of code members.
<b>Proportion of industry that subscribe</b>	The level of coverage of the code should be measured in terms of the number of actual code signatories against potential signatories within the industry	N/A	N/A	N/A

Criteria	ACCC	ACMA	ASIC	OAIC
<b>Code compliance monitoring</b>	The code administration committee needs to ensure that each signatory has an in-house system to ensure compliance with the code. The committee may assist with advice and training to the signatories.	The code administration body is required to monitor compliance and to ensure code signatories are not being disadvantaged due to compliance and the codes objectives are being satisfied.	The code administration body should be responsible for monitoring compliance. Additionally, there should be some form of external or independent monitoring or auditing. Shadow shopping exercises may be appropriate.	Code administrators are a body established to oversee the maintenance and operation of the code.
<b>Enforcement</b>	A code administration committee is to be created and written into the code to enforce the code. Commercially significant sanctions may be necessary and the sanctions should reflect the nature, seriousness and frequency of the breach. Possible sanctions include: corrective advertising, fines, expulsion as signatory to the code, expulsion from industry association and censures and warnings.	The ACMA can make a direction to comply with a code under s121. Sanctions should be commercially significant however not a pecuniary penalty and developed on a 'sliding scale'.	An independent body that is empowered to administer and impose sanctions is required. Possible sanctions include: formal warnings, public naming of non-complying organisations, corrective advertising orders, fines and suspension or expulsion from the industry association.	N/A
<b>Internal Dispute Resolution</b>	The code should have a procedure implemented where complaints should be first considered by the signatories to the code. If the member of public or industry member is dissatisfied with the initial attempt to resolve the complaint, the industry association may attempt to conciliate the dispute.	The code should include provisions for complaints handling and should be the key responsibility of the signatories. However, a dedicated administration body such as a committee should also be responsible for investigating and monitoring complaints by industry members.	The process must comply with standards and requirements made or approved by ASIC. The IDR process should consider all alleged breaches of the code.	The code must provide that the code adjudicator must be satisfied that the complaint has not been resolved to the satisfaction of the complainant or the respondent has not responded within 60 days from the date of the complaint lodgement before an outcome can be determined.
<b>External Dispute Resolution</b>	If the internal review mechanism for complaints fails to resolve the complaint, then the industry should sponsor an independent complaint body to review the decision. The independent review body should be recruited from outside the industry, have fixed tenure and be qualified to hear and resolve complaints.	If the complainant is dissatisfied with the outcome of the complaint, an independent arbitrator (such as TIO) may be sought.	The external dispute resolution scheme is to be approved by ASIC and is explicitly required to take into account any relevant industry code in the assessment of the consumer complaint.	External Dispute resolution will be provided by the Commissioner.

Criteria	ACCC	ACMA	ASIC	OAIC
<b>Systemic Issues</b>	There should be collection of data concerning the origins and causes of complaints to assist in the identification of systematic and recurring problems facing the industry members.	The code administration body should collect detailed data on the numbers, types, sources and resolution of complaints.	The code administration body should also be responsible for establishing appropriate data reporting and collection procedures to identify systematic issues.	The code must provide that a report on the operation of the code is to be provided to the Commissioner. The report must include data concerning all the complaints made during the financial year and any systematic problems arising.
<b>Code Development</b>	The code should develop from the code development committee. The code development committee should consult with its stakeholders to assess the support for the proposed code and incorporate any relevant comments.	Before commencing development the industry body should check for registered codes that may be covering similar issues as proposed in the new code. Extensive consultation of a minimum of 30 days is required with: representatives of end-users in the code, ACCC, the TIO, at least one consumer representative organisation and the Privacy Commissioner if it was a telecommunications privacy code. There should also be a broad public consultation with affected industry participants and the general public before submitting a code for registration.	The development of the code involves identifying all relevant stakeholders, effectively consulting with all stakeholders to identify and debate the key issues, providing an opportunity for public consultation, consulting with ASIC and other relevant regulators, assessing whether a code actually provides the best option to address the identified problems and ensuring that there is an absence of bias in the code.	The code is expected to have a minimum of six weeks for public consultation and a statement of consultation is to be provided to the commissioner. The statement would include: duration of time for the public consultation, people or groups to be affected by the code, list of individuals or groups who made submissions, summary of issues raised, reasons why any feedback was not incorporated and list of organisations likely to adopt the proposed code.
<b>Code Oversight</b>	Code administration committee role is to ensure successful implementation and ongoing effectiveness of the code.	The industry association responsible for registering the code is also responsible for the code's oversight.	The oversight of the code is to be conducted by an administrative body that is independent of the industry or industries that subscribe to the code and provide the body's funding and has adequate resources to fulfil its functions and ensure code objectives are not compromised.	The code administrator is also responsible for the oversight of the code and to ensure its effectiveness.
<b>Consumer representation</b>	The code administration committee needs to have representatives of all stakeholder groups, including consumer representatives	Consumer representatives are required.	Consumer representatives are required.	N/A

Criteria	ACCC	ACMA	ASIC	OAIC
<b>Code Chair</b>	N/A	The administration body should aim to balance the representation of affected parties to include consumer representatives and to have an independent chair.	There should be a balance of industry representatives and consumer representatives and an independent chair.	N/A
<b>Code Review</b>	The code administration committee should regularly monitor codes for compliance and to ensure the desired outcomes are achieved.	Codes should be subject to regular review and amendment to ensure they are meeting community expectations and working effectively.	ASIC Guidelines impose an independent review of the code to be conducted in a transparent manner and involving relevant stakeholders every 3 years.	Ordinarily, the Commissioner expects: a process for independent review to occur once every three years, stated commitment to allocate sufficient resources for the review of the code and requires the code administrator to produce a review report and to submit it to the commissioner.
<b>Public reports</b>	Public annual reports on the operation of the code and assessment of its effectiveness should be published and readily available.	N/A	The code administration body is responsible for publicly reporting annually on code compliance.	N/A
<b>Public naming of subscribers for non-compliance</b>	Not expressly stipulated.	Not expressly stipulated.	Public naming of non-complying organisations is expressly permitted as a sanction for code breaches however there must be regard to procedural fairness.	N/A
<b>Code promotion – industry body</b>	N/A	Codes (especially consumer codes) should include provisions to publicise the code to consumers.	The code administration body is also responsible for ensuring the code is adequately promoted. This may include providing training for community sector case workers or ensuring availability of copies of the code at public offices.	N/A
<b>Code promotion – subscribers</b>	N/A	N/A	N/A	Commissioner encourages promotion of a code by subscribers to ensure that individuals are aware that an organisation is bound by the code.

## Notes



