DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

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NATIONAL CONSUMER COMMISSION
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Opt-Out Registry

GUIDELINES FOR COMPLIANCE WITH OPT-OUT REGISTRY REGULATIONS

[DRAFT]

I, Hardin Ratshisusu, in my capacity as the Acting Commissioner of the National Consumer Commission ("the Commission"), hereby, in terms of section 96 (b) (i) of Consumer Protection Act No.6 of 2008 ("the CPA"), publish the draft Guidelines on Guidelines for compliance with Opt-Out Registry's Regulations. Any person who wishes to submit written input on the draft Guidelines is hereby invited to do so within 15 days of the date of publication thereof by:

a) Delivering such comments by hand at the following address: National Consumer Commission, 01 Dr Lategan Road, Block C, Groenkloof, Pretoria.

b) Mailing such comments electronically to the following email address, jointly: J.Mbeje@thencc.org.za and N.Ngobeni@thencc.org.za .

Hand-delivered comments must be directed to the Divisional Head for Enforcement and Legal Services and marked attention to Mr. Jabulani Mbeje.

Mr. H. Ratshisusu
Acting Commissioner: National Consumer Commission

1. INTRODUCTION

These Guidelines provide practical guidance on compliance with the Consumer Protection Act, 2008 and the CPA, Amendment Regulations, 2026 governing the National Opt-Out Registry.

2. LEGAL FRAMEWORK

The legal framework for the Regulations regulating establishment and operation of Opt-Out Registry is premised on section 11 of the CPA, particularly sections 11(1) and (2), 11(3), (4) and (6). The CPA Regulations as amended in 2026, promulgated in terms of section 120 read with section 11(6) of the CPA:

2.1. **Section 11 of the CPA:**

2.1.1. Section 11(1) of the CPA provides that: "The right of every person to privacy includes the right to-(a) refuse to accept; (b) require another person to discontinue; or (c) in the case of an approach other than in person, to pre-emptively block, any approach or communication to that person, if the approach or communication is primarily for the purpose of direct marketing."

2.2. **Section 11(2) of the CPA:**

2.2.1. Section 11 (2) provides that: "To facilitate the realization of each consumer's right to privacy, and to enable consumers to efficiently protect themselves against the activities contemplated in subsection (1), a person who has been approached for the purpose of direct marketing may demand during or within a reasonable time after that communication that the person responsible for initiating the communication desist from initiating any further communication."

2.3. **Section 11(3) of the CPA:**

2.3.1. Section 11(3) provides that: "The Commission may establish, or recognize as authoritative, a registry in which any person may register a pre-emptive block, either generally or for specific purposes, against any communication that is primarily for the purpose of direct marketing."

2.4. **Section 11 (4) of the CPA:**

2.4.1. Section 11(4) provides that**: "**A person authorising, directing or conducting any direct marketing- (a) must implement appropriate procedures to facilitate the receipt of demands contemplated in subsection (2); and (b) must not direct or permit any person associated with that activity to direct or deliver any communication for the purpose of direct marketing to a person who has-

(i) made a demand contemplated in subsection (2); or (ii) registered a relevant pre-emptive block as contemplated in subsection.

2.5. **Section 11(6) and Section 120:**

2.5.1. Section 11(6) empowers the Minister to prescribe regulations for the operation of the registry contemplated in section 11(3). Section 120 provides a broader regulation-making framework, including the provisions relied upon for regulations expressly authorized or contemplated by the CPA, procedural and administrative matters concerning Commission functions and ancillary or incidental matters necessary for implementation and administration of the Act.

2.6. **Consumer Protection Act, Amendment Regulations of 2026:**

2.6.1. The 2026 amendment regulations operationalize the Opt-Out Registry and introduce requirements relating to direct marketer registration, renewal, database cleansing, compliance with pre-emptive blocks, identification of direct marketers and prescribed fees.

2.6.2. Regulation 4(7) and Regulation 4(11), together with Annexures N, O and P, are central to the operation of the Opt-Out Registry.

3. DEFINITIONS AND KEY CONCEPTS

3.1. **Consumer Rights**: means the rights of consumers to register free pre-emptive blocks; withdraw consent anytime and lodge complaints with the Commission.

3.2. **Cleansing**: the process by which a direct marketer removes from its database all consumers who have opted out of receiving electronic communications, thereby ensuring that such consumers are no longer contacted.

3.3. **Commission**: shall refer and mean the National Consumer Commission, which is a juristic person established as an organ of state within the public administration in terms of section 85 of the CPA. The Commission is listed as a Schedule 3A entity in terms of the Public Finance Management Act, 1999 (PFMA).

3.4. **CPA:** Consumer Protection Act No 68 of 2008 (the CPA").

3.5. **Direct Marketing**: Direct communication with consumers for the purpose of promoting or offering goods or services through telephone calls, SMSs, e-mails, messaging applications, online platforms or any other form of electronic communication.

3.6. **Direct Marketer:** Any person or business conducting direct marketing.

3.7. **Pre-Emptive Block**: Consumer registration on the Opt-Out Registry to block direct marketing communications generally or for specific channels (e.g., email).

3.8. **Opt-Out Registry**: Registry established in terms of section 11(3) of the CPA and administered by the Commission for purposes of enabling consumers to register a pre-emptive block to prevent unwanted direct marketing communications.

4. OBJECTIVES

These Guidelines seek to:

4.1. promote lawful direct marketing;

4.2. protect consumers against unwanted marketing communications;

4.3. encourage voluntary compliance;

4.4. reduce consumer complaints; and

4.5. provide practical compliance guidance.

5. SCOPE OF APPLICATION

5.1. These Guidelines apply to every person or business that engages in direct marketing, including but not limited to suppliers, retailers, insurers, financial institutions, telemarketing companies, call centers, marketing agencies, estate agencies, vehicle dealerships, digital marketers and any other person promoting goods or services directly to consumers.

5.2. Obligations apply even when marketing is conducted by a third party on behalf of a direct marketer whose goods and services are promoted by the said third party.

5.3. Omnichannel retail models where consumers initiate contact are excluded from direct marketer registry obligations.

5.4. A direct marketer remains responsible for compliance even when another person conducts marketing on its behalf.

5.5. Robocalls, automated calls and other forms of automated dialing fall within the scope of direct marketing where they are used to promote or offer goods or services.

5.6. The Guidelines apply to all goods and services that a direct marketer wants to market directly to consumers, irrespective of the industry under which such direct marketer falls.

6. REGISTRATION REQUIREMENTS

6.1. Every direct marketer must register with the Opt-Out Registry before conducting direct marketing to ensure that such direct marketer has access to Opt-Out Registry so that they can obtain a list of consumers who have registered a pre-emptive block against them.

6.2. Registration is mandatory for all direct marketers to register before conducting direct marketing. Such registration will give direct marketer access to the Opt-Out Registry so that it will be able to cleanse its database list of consumers.

6.3. Registration must be completed on the Opt-Out Registry system, which is available on the Commission's website. Registration renewal is required annually on anniversary of registration.

7. DATABASE CLEANSING PROCESS

7.1. Direct marketer must submit its list of consumer databases, i.e. the list of consumers that it intends to do direct marketing during the month that it intends to do direct marketing. The cleansed list is only valid for one month from the date when it was issued. Submission of the list of the database of consumers is done online.

7.2. The system automatically cross-checks with Opt-Out Registry and identifies consumers who registered a pre-emptive block against a direct marketer. Marketers pay cleansing fee of 12 cents per entry/ name of a consumer who has registered a pre-emptive block against a direct marketer.

7.3. After payment, marketers receive the cleansed list showing consumers who have registered pre-emptive blocks against a direct marketer. Marketers must remove all blocked consumer names from their marketing lists for purposes of direct marketing.

7.4. Cleansed lists remain valid for 30 days and marketers may conduct ongoing marketing within month without new cleansing.

8. GENERAL PRE-EMPTIVE BLOCK

8.1. A general pre-emptive block is a registration by which a consumer indicates that the consumer does not wish to receive direct marketing generally.

8.2. A general pre-emptive block must be respected by direct marketers irrespective of the sector, category of goods or services, or marketing channel, to the extent covered by the consumer's registration.

9. SPECIFIC PRE-EMPTIVE BLOCK

9.1. A consumer may register a pre-emptive block that is limited to a specified purpose, category, marketing channel, marketer or sector.

9.2. A specific pre-emptive block must be interpreted and applied according to the scope selected by the consumer.

9.3. A direct marketer may not treat a specific pre-emptive block as having a broader or narrower application than the scope registered by the consumer.

10. SECTOR-SPECIFIC PRE-EMPTIVE BLOCK

10.1. The Opt-Out Registry may provide for a consumer to register a pre-emptive block against direct marketing from a specific sector or category of goods or services.

10.2. A sector-specific block applies to direct marketers conducting direct marketing within the sector or category identified by the consumer.

10.3. A sector-specific block must not be interpreted as a block against all direct marketing unless the consumer has selected a general pre-emptive block.

11. OBLIGATION OF DIRECT MARKETERS

11.1. Every direct marketer has the following legal obligations:

11.1.1. Register before conducting direct marketing, for purposes of obtaining access to Opt-Out Registry;

11.1.2. Cleanse the consumer/ client marketing database every month when it has planned or intend to do direct marketing during that month;

11.1.3. Respect consumer's pre-emptive block; and

11.1.4. Remove names of consumers who have opted out from their direct marketing database before commencing with the process of direct marketing.

11.2. Every direct marketing communication must clearly identify:

11.2.1. the business/marketer's name;

11.2.2. contact details;

11.2.3. email address;

11.2.4. physical address (where applicable); and

11.2.5. any other information necessary to identify the sender.

12. CONSUMER's CONSENT/OPT IN vs OPT-OUT

12.1. Consumers may register a pre-emptive block on the Opt-Out Registry to stop receiving unwanted direct marketing communications.

12.2. Historical or existing consent is invalid once a consumer registers a pre-emptive block.

12.3. Fresh consent does not override a pre-emptive block, unless the consumer has removed such pre-emptive block.

12.4. Consumers may register specific or general blocks and marketers must respect scope of the block.

12.5. Communication without promotional intent (e.g., service enquiries, account administration) is not affected by the Registry.

12.6. Where a consumer has previously consented to receiving direct marketing communication and has not registered a pre-emptive block against a direct marketer, compliance with POPIA is required before doing direct marketing with a consumer.

12.7. There will be no access to cleansed data without registration and cleansing.

12.8. Consumers may lodge complaints with the Commission.

13. WHEN IS THE DIRECT MARKETER ALSO A CONSUMER

13.1. A Sole proprietor whose annual turnover is less than R2 000 000,00 (Two Million Rand) can be both a consumer and a direct marketer, provided such person has registered both as a consumer and a direct marketer.

14. ORDINARY BUSINESS ENGAGEMENTS ARE PERMITTED

14.1. The Opt-Out Registry is directed at communications that are primarily for the purpose of direct marketing. It does not prohibit ordinary business engagements that are not primarily promotional or marketing communications.

15. EXAMPLES OF ORDINARY BUSINESS ENGAGEMENTS

15.1. Ordinary business communications may include:

15.1.1. Responding to a consumer's enquiry;

15.1.2. Confirming, processing or administering an existing order or transaction;

15.1.3. Arranging delivery, collection, installation, inspection or an appointment;

15.1.4. Dealing with an account, invoice or payment;

15.1.5. Providing customer support or after-sales service;

15.1.6. Dealing with a complaint, return, cancellation or warranty matter;

15.1.7. Providing information necessary to perform an existing contractual obligation; or

15.1.8. Any other communication reasonably necessary to complete, administer or give effect to an existing business engagement.

16. WHEN AN ORDINARY CALL BECOMES DIRECT MARKETING

16.1. If ordinary business communication is used as a vehicle to promote, advertise or offer additional goods or services, the promotional part of the communication may constitute direct marketing. For example, a call made to resolve an account query may be permissible, but an unsolicited sales pitch added to that call is direct marketing and must comply with the CPA, the Opt-Out Regulations and applicable privacy law.

17. COMPLIANCE AND ENFORCEMENT

17.1. Non-compliance with the provisions of section 11 read with the amended regulations may lead to a complaint being lodged with the Commission against a direct marketer, investigated, and a compliance notice, or referral application lodged with the National Consumer Tribunal for administrative penalties against the non-compliant direct marketer.

17.2. In serious cases, contraveners may face criminal prosecution. Convicted persons may be fined or imprisoned for a period not exceeding 12 months under the CPA.

17.3. Complaints will first be investigated before compliance notice or a referral application to impose a penalty is made.

17.4. Compliance responsibility extends to agencies, franchises and branches.

17.5. Direct Marketers using automated dialing must comply with the applicable requirements of the CPA and the Opt-Out Registry's amended Regulations.

18. GOOD PRACTICE RECOMMENDATIONS

18.1 Direct marketers are encouraged to:

18.1.1 designate a compliance officer;

18.1.2 develop internal direct marketing policies;

18.1.3 train employees regularly;

18.1.4 conduct periodic compliance audits;

18.1.5 maintain accurate consumer databases; and

18.1.6 stay informed of legislative amendments affecting direct marketing.

19. DISCRETION

19.1. The Guidelines are not binding on the Commission, the National Consumer Tribunal, or the Courts. However, any person interpreting or applying the Act must take the Guidelines into account. The Guidelines accordingly provide a framework for the operation and administration of the Opt-Out Registry, as contemplated in section 11 of the CPA read with the Opt-Out Registry Regulations. Notwithstanding, the Guidelines do not fetter or limit the discretion of the Commission, the National Consumer Tribunal, or the Courts to consider any other relevant factors and circumstances on a case-by-case basis when exercising statutory functions and powers.

20. SHORT TITLE

20.1. These Guidelines shall be called the Guidelines on Opt-Out Registry 2026.

ANNEXURE A: SUMMARY OF THE LEGAL FRAMEWORK AT A GLANCE

Provision	What it does	Practical relevance
CPA s 11(1)–(2)	Protects the right to refuse, discontinue or block direct marketing and to demand that it cease.	A marketer must have procedures to respect consumer choices.
CPA s 11(3)	Provides for a registry of pre-emptive blocks, either generally or for specific purposes.	The scope of the consumer's block matters.
CPA s 11(4)	Places duties on direct marketers to facilitate opt-out demands and honor registered pre-emptive blocks.	Internal suppression and opt-out processes are essential.
CPA s 11(5)	Prevents a consumer from being charged for opting out.	Do not charge a consumer registering a pre-emptive block.
CPA s 11(6)	Authorizes regulations for operation of the registry contemplated in s 11(3).	Basis for the regulatory operation of the Registry.
CPA s 120	Provides the broader regulation-making framework.	Supports the statutory framework for implementation.
2026 Amendment Regs – Reg 4(7)	Introduce direct marketer registration, cleansing and related compliance requirements.	Direct marketers must follow the prescribed Registry process.
2026 Amendment Regs – Reg 4(11) / Annexure N	Provides the fee structure.	Use the current prescribed fees.
Annexures O & P	Provide the consumer pre-emptive block and direct marketer registration mechanisms.	Use the prescribed forms/processes. Forms may be amended now and then depending on legislative reforms

ANNEXURE B: FREQUENTLY ASKED QUESTIONS

FAQ 1: What is the purpose of the National Opt-Out Registry?

It provides a mechanism through which consumers can register a pre-emptive block against direct marketing. It is intended to reduce unwanted direct marketing and give effect to section 11 of the CPA.

FAQ 2: Does every phone call by a business amount to direct marketing?

No. The purpose of communication matters. A call to administer an existing transaction, arrange delivery, resolve an account or complaint, provide support or perform a contractual obligation is not automatically direct marketing. A call primarily intended to promote or offer goods or services is direct marketing.

FAQ 3: Can a business call a consumer for an ordinary business engagement if the consumer is on the Opt-Out Registry?

An ordinary business engagement that is not primarily for direct marketing is not the type of communication targeted by the Registry. The caller must, however, ensure that communication does not become a promotional call. If marketing is introduced, the direct marketing requirements apply.

FAQ 4: Can I call a consumer to confirm an appointment?

Yes, where the call is genuinely to administer or confirm an existing appointment or business engagement and is not primarily promotional.

FAQ 5: Can I use a service call to sell another product?

If the purpose of the additional communication is to promote or offer another product or service, that part of the communication is direct marketing and must comply with the CPA and applicable Regulations.

FAQ 6: What if the direct marketer is also a consumer?

The person can occupy both roles. When buying or receiving goods or services, the person is acting as a consumer. When promoting or offering their own goods or services to consumers, the person is acting as a direct marketer. The purpose of the particular communication determines which obligations apply.

FAQ 7: Does registration on the Registry amount to a license?

The Commission's implementation position is that registration is an operational requirement that enables a direct marketer to access and use the Registry for cleansing. It is not a professional or business license.

FAQ 8: Must a direct marketer register before marketing?

Yes, the amended Regulations require direct marketers to register before conducting direct marketing, subject to the scope and operation of the Regulations.

FAQ 9: What must a registered direct marketer do with its database?

It must conduct the prescribed cleansing against the National Opt-Out Registry and respect applicable pre-emptive blocks and direct opt-out demands.

FAQ 10: Can a consumer register a general or specific pre-emptive block?

Section 11(3) expressly contemplates a pre-emptive block either generally or for specific purposes. The Commission's memo records that the Registry allows both general and specific pre-emptive blocks.

FAQ 11: Can previous consent override a pre-emptive block?

The Commission has previously communicated that fresh consent does not override an existing pre-emptive block. A marketer should therefore not assume that previous or fresh consent automatically permits marketing contrary to a registered block.

FAQ 12: Does the Opt-Out Registry replace POPIA?

No. The CPA and POPIA address different aspects of direct marketing and should be applied together. The Commission's memorandum records that the Information Regulator has been engaged and that the two frameworks are regarded as complementary.

FAQ 13: What are the prescribed fees?

The fees are set by the applicable Regulations and Annexure N and may change. Direct marketers should rely on the current prescribed schedule rather than an outdated fee quotation.

FAQ 14: What happens if a business uses a call centre or marketing agency?

Using a third party does not remove the direct marketer's compliance responsibility. The business should ensure that its service providers comply with the CPA and Regulations and that required registration and cleansing arrangements are in place.

FAQ 15: What should a business do if it is unsure whether communication is marketing?

Apply the purpose test. If communication is primarily to promote or offer goods or services, treat it as direct marketing. If it is genuinely to administer or complete an existing business engagement and contains no promotional purpose, it is generally an ordinary business communication. Where communication has mixed purposes, the promotional component should be treated cautiously and compliance controls applied.

FAQ 16: Are political organisations covered by the Opt-Out Registry Regulations when campaigning for votes?

Political campaigning for votes does not ordinarily constitute “direct marketing” under the CPA because the purpose is to solicit political support rather than to promote goods or services or request a donation.

However, where a political organisation solicits donations from individuals or juristic person whose annual turnover is less than R2 000 000,00 (Two Million Rand), that communication may constitute direct marketing and may therefore fall within the Opt-Out Registry regime.

FAQ 17: Are Non-Profit Organizations(“NPO”) automatically excluded from the Opt-Out Registry Regulations?

An NPO is not automatically excluded merely because it is a non-profit organisation. The determining factor is whether its particular communication constitutes “direct marketing” under the CPA.

FAQ 18: When would an NPO be regarded as a direct marketer?

An NPO would be regarded as a direct marketer where it approaches persons, including by telephone, SMS, email or other covered means, for the purpose of requesting a donation from individuals or juristic person whose annual turnover is more than two million. The CPA's definition of direct marketing expressly includes a request for a donation.

FAQ 19: When would an NPO not be regarded as a direct marketer?

An NPO would generally not be regarded as a direct marketer where its communication is purely for administrative, informational, educational, awareness related purposes, and does not constitute direct marketing as defined in the CPA.

ANNEXURE C: LEGAL QUESTIONS AND THE COMMISSION'S RESPONSES

This Annexure sets out the principal legal questions arising from the interpretation and implementation of the Regulations. The purpose is to provide clear and practical guidance on the legal framework underpinning the Regulations.

1. What are the empowering provisions that regulate the activities of direct marketers?

The activities of direct marketers are regulated principally by section 11 of the CPA**,** which establishes the consumer's right to restrict unwanted direct marketing, and section 120, which empowers the Minister to make regulations necessary to give effect to the CPA. Section 11(6) specifically provides the regulatory basis for the establishment and operation of the Registry.

2. Does the Registry give effect to section 11(3) by allowing consumers to place pre-emptive blocks against specific marketers or sectors?

Section 11(3) is important in determining the scope of a consumer's pre-emptive block. The Registry must not be understood as providing only a single, blanket opt-out mechanism.

The framework accommodates both general pre-emptive blocks and specific-purpose pre-emptive blocks. A consumer may therefore indicate that direct marketing is not permitted generally or may restrict direct marketing in accordance with the specific scope selected by the consumer.

Direct marketers must respect the applicable block recorded on the Registry and may not treat a specific-purpose block as though it were either broader or narrower than the scope selected by the consumer.

3. How does the CPA opt-out framework operate together with POPIA?

The CPA and POPIA regulate different but related aspects of direct marketing and the protection of consumers' personal information.

The Commission's position is that the two frameworks are complementary and should, where applicable, be interpreted harmoniously. Compliance with the CPA opt-out requirements does not displace the obligations imposed by POPIA, and compliance with POPIA does not remove the obligations arising under the CPA.

The Commission has engaged with the Information Regulator on the relationship between the two frameworks, with the position being that the respective regulatory frameworks are capable of operating together.

4. Does the direct marketing framework prohibit ordinary business engagement?

The opt-out framework should not be interpreted so broadly that every telephone call made by a business to a consumer is automatically regarded as prohibited direct marketing.

The distinction between ordinary business engagement and direct marketing is important. Communications genuinely directed at administering, servicing or otherwise conducting an existing business relationship are distinguishable from communications whose purpose is to promote or offer goods or services in circumstances falling within the statutory definition of direct marketing.

Accordingly, a direct marketer that is also a consumer or existing customer is not prohibited from making ordinary business-related enquiries, communicating with a supplier, following up on an existing transaction, or engaging in legitimate business administration merely because the person or entity is registered on the Registry.

The determining consideration is the purpose and nature of the communication, and whether it constitutes direct marketing as contemplated in the CPA.

5. What is the effect of a pre-emptive block on a direct marketer's ability to contact a consumer?

Where a communication constitutes direct marketing and the consumer has registered a pre-emptive block applicable to that communication, the direct marketer must respect the block.

The scope of the prohibition must, however, be determined with reference to the type and purpose of the block registered by the consumer. A block should not automatically be interpreted as prohibiting communications that fall outside the scope of direct marketing or legitimate ordinary business engagement.