

# Internet Best Practice Model

**Lewis Grimm summarises the recently released Best Practice Model for conduct on the Internet.**

On 18 May 2000, the Minister for Financial Services & Regulation, Joe Hockey, released a code of conduct entitled *Building Consumer Sovereignty in Electronic Commerce: A Best Practice Model for Business* ("Best Practice Model"). The aim of the code is to increase consumer confidence in business to consumer ("B2C") electronic commerce. However, many of the recommendations contained in it are equally applicable to business to business ("B2B") transactions.

Although it is proposed that the relevant industry associations and individual businesses adopt the Best Practice Model, there is no requirement that they do so. The code does not propose any remedies for its breach other than existing legal remedies for unfair business practices. Also, to the extent that the code is inconsistent with any existing laws, those laws prevail.

The code recommends that businesses:

- comply with laws relating to fair business practices and people with disabilities;
- deliver electronic goods and services without specialised software or hardware unless the customer has been clearly informed of the requirement for it in advance;
- obtain consent from the consumer's parent if the business believes that the consumer is under 16 years;
- only send commercial e-mails to existing customers and those who request them;
- clearly identify themselves and their contact details in online communications; and
- use secure payment methods and clearly inform customers about them.

The code also makes a series of recommendations relating to the formation of the contract with the consumer as well as the resolution of disputes relating to the contract. It suggests that the business clearly provides

customers with all relevant terms and conditions. However, it further proposes that the consumer should also be able to inform the business as to the purpose for which they require the product, and to modify the terms of the contract. Once the order has been received, the business should promptly acknowledge its receipt.

The contract should clearly display details of any external dispute resolution mechanism to which the business subscribes, but, in addition, the business should develop proper internal procedures to handle consumer complaints. The business should clearly display the jurisdiction where disputes must be determined at the earliest possible stages of the consumer's interaction with the business.

The code recommends that businesses must respect consumers' privacy when

handling personal information, including adherence to the Privacy Commissioner's *National Principles for the Fair Handling of Personal Information*. This would also include the *Privacy Amendment (Private Sector) Bill 2000 (Cth)*, the specific terms of which are currently being negotiated in Parliament.

Provided this code is generally adopted, it has the potential to fulfil the stated aim of building Australia's reputation as a place to do business. However, it remains to be seen whether self-regulation will be effective in an area as fiercely anti-regulatory as the Internet, particularly given that businesses adopting the model outside the membership of an industry are required to notify the Department of Treasury.

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