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# Report on Personal Identification Information in Property Data Code of Conduct Review

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August 2017

## EXECUTIVE SUMMARY

This is a five-yearly review of the operation of the *Personal Identification Information in Property Data Code of Conduct*, the first being undertaken and reported on by Galexia Pty Ltd in 2013.

This current review found that the Code and its oversight are delivering the outcomes as set out in the Code. As expected the complaints handling and suppression processes have been refined over time with added experience.

In terms of *coverage* of the Code, all major information brokers are members of the Code. This has been achieved because Code membership is mandatory for organisations that want a licence to access name and service data in the QVAS database. Processes are in place to ensure that coverage of the Code is monitored on an ongoing basis to ensure major players are participants.

Specifically, this review found the following on the terms of reference benchmarks:

*Accountability:* The Annual Report, the website, discussions with the Department of Natural Resource and Mines (DNRM) as well as a Consumer Representative on the Code Oversight Committee provide adequate accountability mechanisms on the scheme. Reviews such as this one are an important accountability mechanism.

*Effectiveness:* Overall the scheme is effective but there is scope for regular meetings of all stakeholders to continually monitor and improve the scheme's effectiveness as opportunities are identified.

*Efficiency:* Overall the scheme is efficient but again there is scope for regular meetings of all stakeholders to continually look for opportunities to increase the scheme's efficiency.

*Accessibility:* The brochure developed by the Code Oversight Committee is clear, concise, sets out the main issue of concern to consumers and gives a reference to the website where a consumer can access further useful information. For a process to be accessible it must first be **readily visible** to its potential users. One option for consideration is that information on how to find out more about the Code is available to consumers at the time of settlement or as soon as possible thereafter to enhance the Code's visibility and, through this, its accessibility.

*Independence of the Code of Conduct and its administration:* The Code Oversight Committee is operating independently.

The following findings were also made on additional benchmarks:

*Co-operation between Code Subscribers and the Committee to achieve the objectives of the Code of Conduct:* Feedback from the Committee, DNRM and Code Subscribers indicates that

co-operation between Code Subscribers and the Committee to achieve the objectives of the Code of Conduct appears to be working well.

*Complaint handling processes:* While there was consensus that the Code provides an effective method for dealing with privacy complaints when related to direct marketing, there is little policy guidance where the complainant has alleged that another has encroached upon their privacy. It would be desirable to develop a clear policy on this matter.

*Suppression request processes:* It was noted that there was quite an increase in the number of suppression requests which in itself is an indicator that consumers are becoming aware of their right to have their details removed and are actioning this right. Potential improvements aimed at attaching adequate proof of ownership at the suppression application stage are supported. On the issue of who should be allowed to lodge a suppression application this reviewer believes property owners should be able to authorise a third party to act on their behalf using a written authorisation.

*The Committee's decision-making procedures with respect to alleged breaches of the Code:* The Code Oversight Committee's current decision-making procedures with respect to alleged breaches of the Code accord with the principles of procedural fairness.

*The promotion and marketing of the Code of Conduct:* While there are promotional activities there is scope for improvement in this area. As real estate agents are the main users of lists it is important that regular promotion of the Code and its requirements occurs at this level. In relation to the public, the challenge is to make promotional material such as the Code brochure and website more visible to this target audience. It is noted that the Code Subscribers have been asked recently by the Committee to self-audit their agreements and information provided to their customers for compliance with the Code's clause 6.

*Code compliance management systems:* It would appear that Code Subscribers have adequate compliance systems in place to act on suppression requests. That said, not all Code Subscribers are promoting the Code on their websites. This may not conform to their obligations under the Code. Action needs to be taken by any Code Subscribers found to be non-conforming to ensure that they meet the Code requirements in this area.



W G Dee

Personal Identification Information in Property Data Code of Conduct Reviewer

28 August 2017

## RECOMMENDATIONS

1. An annual workshop-style meeting be convened involving the Department of Natural Resources and Mines (DNRM), the Code Oversight Committee, the Office of Fair Trading and Code Subscribers to provide opportunity for feedback with a view to improving the overall effectiveness and efficiency of Code processes.
2. Consideration be given to providing information to consumers on finding out more about the Code at the time of settlement or as soon as possible thereafter to enhance the Code's visibility and, through this, its accessibility.
3. The DNRM amend its privacy statement to include the right of suppression through the Code.
4. The Code Oversight Committee consider obtaining its own independent legal advice in order to develop a policy and process surrounding how best to handle privacy interference complaints when they are received.
5. Given that in recent years there have been changes in Code Subscriber ownership and corporate structures as well as changes to the Code itself, Code Subscribers should review the information pertaining to the Code on their websites as well as the Terms and Conditions for their customers.

## METHODOLOGY

The terms of reference for the review indicated that it shall undertake consultation with key stakeholders, which shall include, but not necessarily be limited to:

Queensland Department of Natural Resources and Mines (DNRM)

Office of Fair Trading (OFT)

Code Subscribers/Value Added Property Information Brokers Association Incorporated (VAPIBA)

Code Oversight Committee members:

Neil Lawson, Chair

Fiona FitzPatrick, Consumer Representative

Kris Matthews, Industry Representative.

Invitations to complete a questionnaire as well as to lodge a submission were sent to:

Code Oversight Committee

Queensland Department of Natural Resources and Mines

Queensland Office of Fair Trading

Code Subscribers:

CoreLogic

CITEC Confirm

APM PriceFinder

Equifax (formerly Veda)

Value Added Property Information Brokers Association Incorporated

Responses to questionnaires/submissions lodged were submitted by:

Code Oversight Committee

Equifax

Department of Natural Resources and Mines

Consumer Representative on the Code Oversight Committee

CITEC

APM PriceFinder

Real Estate Institute of Queensland (REIQ)

Office of Fair Trading

Documents reviewed included:

2015 – 2016 Annual Report

Statistics for 2016 – 2017 Annual Report

[www.propertydatacodeofconduct.com.au](http://www.propertydatacodeofconduct.com.au)

## THE REPORT

### Background

#### The Code of Conduct

The *Personal Identification Information in Property Data Code of Conduct* was introduced on 1 October 2009. It was designed to address consumer concerns about the inappropriate use of personal identification information sourced from Queensland Valuation and Sales (QVAS) databases maintained by the DNRM. Amendments to the Code of Conduct can be made in consultation with stakeholders, namely the Committee, industry and DNRM.

Access to the information held in the QVAS database is available online to individual businesses, industry professionals and members of the public and can be obtained over the counter for a fee from DNRM. The information is generally accessed by potential purchasers and professionals acting in property transactions, such as real estate agents, financing sources (e.g. banks), solicitors and valuers. The database includes the following information:

- details of the property, including the street address;
- transaction details (e.g. purchase price and type of sale); and
- personal information – the names and service addresses of the vendors and purchasers.

The 'service address' is the address nominated by the property owner for the receipt of official correspondence, such as Council rates notices, and may differ from the property's street address. Investor-owned as distinct from owner-occupied properties will frequently have service addresses different to the property's street address.

Other transaction details, such as the sale price of the property, are not covered by the Code.

#### The Code Oversight Committee

The Code Oversight Committee consists of an independent Chair, a Consumer Representative and an industry representative.

The role of this Committee includes the following:

- approving and registering information brokers as Code Subscribers;
- monitoring compliance with the Code by its subscribers and their clients to ensure ongoing effective operation of the Code's requirements;
- receiving and investigating unresolved complaints;
- imposing sanctions on subscribers or their customers for failure to comply with the Code;
- maintaining a Register of Suppression Requests; and
- maintaining a Register of Excluded Parties.

Every five years an independent review of the operation of the Code of Conduct is required to be commissioned. The last review was undertaken by Galexia Pty Ltd in 2012/13. Since that review, there have been no major changes to the Code or the procedures for handling complaints and suppression requests.

### Code review

The Code Oversight Committee appointed Bill Dee, Director, Compliance and Complaints Advisory Services, to undertake this five-yearly review.

The independent reviewer was asked to report on the operation and effectiveness of the Code of Conduct and to include, but not necessarily be limited to, an assessment of the accountability, effectiveness, efficiency, accessibility and independence of the Code of Conduct and its administration, taking into account the following:

- an analysis of changes in industry practice;
- privacy regulation; and
- best practice in industry codes of practice.

The review may recommend necessary changes and amendments to the Code of Conduct.

Examples of the areas of particular interest to the Code Oversight Committee are:

- co-operation between Code Subscribers and the Committee to achieve the objectives of the Code of Conduct
- complaint handling processes
- suppression request processes
- the Committee's decision-making procedures with respect to alleged breaches of the Code and whether these accord with the principles of procedural fairness, to allow for assessments and decisions relating to a matter to be based on fairness, other relevant industry codes of conduct and good industry practice
- the promotion and marketing of the Code of Conduct.

To this the reviewer has added Code Compliance Management Systems which is a critical aspect of Code compliance to report on.

## Changes made since the last review

The Code of Conduct was amended in 2015 to include the civil standard of proof (the balance of probabilities) for breaches and to explicitly refer to Code Subscriber Customers in the relevant clauses which imposed obligations on Code Subscribers.

The period between independent reviews was made five years instead of three years.

## Coverage of the Code

A high level of involvement of stakeholders will encourage a high level of code ownership and coverage. The greater the involvement of industry stakeholders with the industry code, the greater the likelihood of it achieving its objectives.<sup>1</sup>

### Discussion

The Code only applies to the names and service addresses of vendors and/or purchasers of real property in Queensland where such information is obtained by way of wholesale licence from the DNRM. The relevant DNRM database is the Queensland Valuation and Sales system (QVAS). When the Code was first established in October 2009 it was known as the QVAS Code of Conduct, but this title had little meaning for consumers and was changed to the current name.

The Code does not apply to information that may be obtained from other non-QVAS sources.

DNRM knows which brokers it licences and to whom it supplies names and service addresses. If a broker purchases QVAS data (e.g. sale prices) but not names and service addresses, such a broker is not covered by the Code and does not have to be a Code Subscriber or member of VAPIBA.

The Code does not apply to information where the vendor or purchaser of real property is a corporation. Only natural persons are able to apply for suppressions of the names and service addresses.

The Committee uses market intelligence and consultations with DNRM to assess whether or not there are any other information brokers who should be members of the Code. Unless an information broker wishes to receive QVAS name and service address information from QVAS under licence from DNRM they do not need to be a member of the Code.

In response to a question as to whether the DNRM was still confident that it had full coverage of the Code, the Department replied in the positive.

The Department's Value Added resellers required to be members of the Code are:

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<sup>1</sup> ACCC Guidelines for developing effective voluntary codes of conduct, P 5

- CITEC Confirm
- CoreLogic (formerly RP Data)
- APM PriceFinder
- Onthehouse
- Equifax (formerly Veda).

The Department has been advised that the following organisations are licensees' agents:

- onethehouse.com.au – an agent of CoreLogic
- Property Data Solutions – an agent of APMPriceFinder.

The Committee liaises closely with the Department of Natural Resources and Mines regarding licensing of any new industry players. DNRM conducts periodic audits of its data users. The Department indicated that it is about to commence an audit of licensees' agents and that once concluded, it will provide the Committee with the updated information.

### **Assessment**

In Queensland, all major information brokers are members of the Code. This has been achieved due to Code membership being mandatory for organisations that want a licence to access name data in the QVAS database.

It is always possible that new organisations may seek to access QVAS data without being members of the Code, possibly through a sub-licence agreement with an existing information broker.

As noted above, the Department will be conducting an audit of licensees' agents and the Committee itself uses market intelligence and consultations with DNRM to assess whether or not there are any other information brokers who should be members of the Code. The reviewer is satisfied that processes are in place to ensure that coverage of the Code is being monitored on an ongoing basis to ensure major players are participants.

### **Accountability**

In essence accountability is a 'window' on the scheme so that all interested stakeholders and the public at large can have confidence that the Code Oversight Committee has delivered what the code sets out to deliver.

### **Discussion**

Accountability in the context of the Code relates to the openness in the way the Code Oversight Committee carries out its tasks. On the issue of accountability the ACCC guideline on codes<sup>2</sup> states:

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<sup>2</sup> ACCC Guidelines for developing effective voluntary codes of conduct, P12

The committee should also produce annual reports on the operation of the code, allowing for periodic assessment of its effectiveness. These reports should be readily available to all stakeholders and interested parties.

In relation to this matter the Committee publishes its Annual Report each year. The Annual Report is provided to the DNRM and the Minister for Natural Resources and Mines. Annual Reports are also published on the Code's website for access by the public.

In the course of this review the reviewer sighted the 2015 – 2016 Annual Report and others which covered Complaint Resolution, Developments in 2015 – 2016, Industry Representative's Report, Consumer Representative's Report, Suppression Requests, Complaints and Financial Statement. These are the main areas of the Committee's operations.

This reviewer believes that the public interest in the operation of the Code is further served through the involvement of:

- a Consumer Representative on the Code Oversight Committee;
- Queensland Department of Natural Resources and Mines; and
- Queensland Office of Fair Trading.

The Code also has a website ([www.propertydatacodeofconduct.com.au](http://www.propertydatacodeofconduct.com.au)) which has portals to:

- List of Participating Brokers
- Application for Suppression Form
- Information for Code Subscribers
- Broker and Code Administration
- Broker Membership Application
- Complaints Management
- Publications and Governance.

The website also has links to Annual Reports, a brochure, the Code and FAQs.

The Committee also meets at least once a year with DNRM representatives to discuss industry trends, any emerging issues and questions or concerns DNRM might have with regard to the Code's administration. On an 'as needed' basis there are also telephone and email communications between the Committee and DNRM.

If there have been any serious cases of misconduct and a severe sanction has been imposed by the Committee then DNRM is immediately informed.

### **Assessment**

The Annual Report, the website and discussions with the DNRM, as well as a Consumer Representative on the Code Oversight Committee, provide adequate accountability mechanisms on the scheme.

It is noted that the Galexia review found that no significant action was required in relation to accountability. However, it is believed that the Committee may need to monitor member contribution fees closely to ensure that the fee structure does not unnecessarily exclude smaller players from obtaining access to QVAS data. This is a matter that the Committee should keep in mind, monitor and raise in its discussions with DNRM. A recommendation has been made later in this report concerning a continuous improvement mechanism involving all major players in the scheme that will further enhance accountability.

## Effectiveness

One major measure of effectiveness could include the level of dissatisfaction from consumers, Code Subscribers and other stakeholders on the Code Oversight Committee's administration of the Code in delivering on the objects of the Code.

### Discussion

The Code Oversight Committee believed that in general terms the level of co-operation between the Code Subscribers and the Committee is high. Code Subscribers are responsive to requests from the Committee and co-operate in the achievement of the objectives of the Code of Conduct.

DNRM was of the view that the Code was working effectively.

The Committee monitors the operational effectiveness and efficiency of the suppression request system and the Administrator reports any issues as and when they are identified.

Industry views on the Code process were supportive, but stakeholders raised some minor concerns.

As with the previous review, one broker raised concerns that the complaints handling and suppression processes were costly and complex to administer. They had to match suppression requests manually. While they were willing to continue doing this, they noted that they were not themselves the subject of any breaches or complaints, so the compliance burden had been forced on them by the actions of customers of other brokers. However, they had recently noticed "a big slowdown in suppressions and complaints from the committee" – and they acknowledged that this could be a sign that the Code is working.

### Assessment

In its report Galexia<sup>3</sup> discussed a number of issues that related to the suppression processes. While there was no major push from sources contacted on this issue during this review it nevertheless raises the important issue of gaining feedback from the underlying root causes of complaints and from Code Subscribers themselves to continually improve the

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<sup>3</sup> Personal Identification Information in Property Data (PIIPD) Code Oversight Committee–PIIPD–Code of Conduct Review–(v15 4 March 2013)–(Galexia Ref: GC417) at pp 19-20

administration of the code. The reviewer therefore **recommends** that an annual workshop type meeting be convened involving DNRM, the Code Oversight Committee, the OFT and Code Subscribers to provide opportunity for feedback with a view to improve the overall effectiveness and efficiency of code processes.

## Efficiency

Efficiency in the context of the Code means the Code Oversight Committee and Code Subscribers being able to undertake their tasks in a timely and cost effective manner.

### Discussion

The Committee monitors all complaints by way of an Excel spreadsheet maintained by the Administrator. All complaints are listed along with the responsible Code Subscriber dealing with the complaint and investigating any alleged breach, and the status of the matter. The spreadsheet also includes details of the Register of Excluded Parties and completed matters.

All Code Subscribers have been informed of the timeframes required by the Code. One Code Subscriber considered that the introduction of the consistent email/letter templates has improved the efficiency of the complaints handling process creating a consistent approach by all brokers.

Actions by Code Subscribers and conformity with the timeframes can be monitored by the Committee with the review of the spreadsheet data.

One Code Subscriber indicated that they had to spend time obtaining additional information to make sure that the entity which was the subject of a complaint was not their client.

### Assessment

In its report, Galexia<sup>4</sup> raised a number of issues under the efficiency discussion which the reviewer believes could best be (a) identified and (b) developed as realistic and cost effective processes at an annual workshop involving all major stakeholders as recommended above, as a means of continuous improvement of the scheme.

## Accessibility

Accessibility in the context of the Code and its administration is the capacity for consumers to be able to (a) be aware that they have a right to have their details suppressed and (b) to be aware how to access the Suppression Order process. More generally it covers the degree to which the Committee's contact points, processes and systems are user-friendly.

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<sup>4</sup> Personal Identification Information in Property Data (PIIPD) Code Oversight Committee–PIIPD–Code of Conduct Review–(v15 4 March 2013)–(Galexia Ref: GC417) at pp 21-23

## Discussion

In terms of when a consumer becomes aware of his/her right to have their name suppressed, this generally arises when they receive unsolicited and unwanted direct marketing – often from a real estate agent – and the consumer seeks to make a complaint.

In response to the question as to whether DNRM believed that individuals are made sufficiently aware of their right to have their personal information from the QVAS data withheld from information brokers for their clients, DNRM responded in the positive for the following reasons:

- DNRM’s website provides a direct link to the Code and the Committee’s email address for further information: [www.qld.gov.au/environment/land/title/valuation/privacy](http://www.qld.gov.au/environment/land/title/valuation/privacy) (**Note:** when accessed there is a clear statement about suppression and the Code with appropriate links. It begs the question as to how visible this is to an individual who buys or sells property);
- The Department also provides a link to the Code website on the whole of government website: [www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/fair-trading-services-programs-and-resources/useful-websites](http://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/fair-trading-services-programs-and-resources/useful-websites) (**Note:** when viewed it is not easy to access the suppression right for consumers);
- The Department’s procedures for the suppression of personal details in the valuation roll under the *Land Valuation Act 2010* require that, on receipt of an application for suppression under that Act, the applicant is advised (as an added precaution) to apply under the Code to have their name and service address information suppressed (website and postal address);
- The Code requires that a Code Subscriber must:
  - Promote the Code and the Prohibition on Direct Marketing in relevant Code Subscriber Customer marketing literature and online material
  - Prominently display the Prohibition on Direct Marketing in the terms and conditions of use of its products;
- The Committee’s Annual Report for 2015–2016 showed a slight increase in complaints received (37 compared with 30 received in 2014–15). There were 59 consumer suppression requests approved by the Committee in 2015–16 compared with 44 in 2014–2015. These increases reflect growing awareness of the Code.

When asked whether it believed that consumers are made sufficiently aware at the time of transaction of their right to have their personal information on the QVAS database withheld by information brokers from their clients, the OFT responded that complaints data held by the OFT, and discussions between OFT Officers with consumers at real estate events, indicate consumers are not made aware of their rights in relation to their personal information being provided to brokers or their clients. The main complaint from consumers is that real estate

agents write to them directly, using private details obtained from an information broker source to entice them to sell their homes, which it claims is a direct contravention.

In terms of website coverage the OFT webpage posts a link to DNRM about the use of information collected in the valuation system:

[https://www.dnrm.qld.gov.au/?a=109113:policy\\_registry/personal-information-collected-under-lva.pdf](https://www.dnrm.qld.gov.au/?a=109113:policy_registry/personal-information-collected-under-lva.pdf). The DNRM webpage has information about the Code at:

<https://www.qld.gov.au/environment/land/title/valuation/privacy>

All Code Subscribers have been provided with the brochure for their use. The REIQ has also been provided with the brochure and agreed to make it available at relevant training programs.

### **Assessment**

For a process to be accessible it must first be **readily visible** to its potential users. As discussed above, the Code Oversight Committee's website does provide user friendly information but it begs the question as to how visible the website itself is to the public. In short, information should be relatively easily found if consumers need to look. The degree to which there is publicity of an avenue for complaint or redress may be considered to be proportionate to the issue of likely concern, and what action a consumer might be normally and reasonably expected to take. For example, if a consumer typed in "how to complain about real estate agents' direct mail", a Google search brings up the Code's website.

Accessibility to information about suppressions is also relevant to the consumers inasmuch as they should be able to easily navigate the suppression process. To this extent this reviewer believes that the DNRM should amend its privacy statement to include the right of suppression through the Code. The reviewer therefore **recommends** that the DNRM amends its privacy statement to include the right of suppression through the Code.

Clause 5.1.3 of the Australian Standard on *Complaints Management for Organisations*, AS/NZS 10002-2014 on the subject of visibility and transparency states that an organisation should ensure that information about how and where a complaint may be made to or about the organisation is *well-publicised* (emphasis added). On the related issue of accessibility it states, at Clause 5.1.4, that an organisation should ensure that its complaint management system is accessible to everyone, particularly people who might require assistance.

In short, it should be easy for a consumer to see:

- a) that they have an option to have their details suppressed at the time of settlement or sometime soon after settlement;
- b) where and how to use the suppression process;
- c) where and how to complain if things go wrong.

I note that Clause 1.3 of the Privacy Principles<sup>5</sup> states:

At or before the time (or, if that is not practicable, as soon as practicable after) an organisation collects personal information about an individual from the individual, the organisation must take reasonable steps to ensure that the individual is aware of:

(a) the identity of the organisation and how to contact it; and (b) the fact that he or she is able to gain access to the information; and (c) the purposes for which the information is collected; and (d) the organisations (or the types of organisations) to which the organisation usually discloses information of that kind; and (e) any law that requires the particular information to be collected; and (f) the main consequences (if any) for the individual if all or part of the information is not provided.

The brochure developed by the Code Oversight Committee covers the issues set out in (a) –(c) above. It is clear and concise, sets out the main issues of concern to consumers and gives a reference to the website through which a consumer can access further useful information.

The reviewer **recommends** that consideration be given to providing information to consumers on how to find out more about the Code at the time of settlement or as soon as possible thereafter to enhance the Code’s visibility and, through this, its accessibility.

### Independence of the Code administration

Independence of the Code administration means that the Code Oversight Committee has enough funding to carry out its task and to be free of any undue influence from any outside body.

### Discussion

Both the Chair and the Consumer Representative are entirely independent of the Code Subscribers.

The Industry Representative is a senior employee of one of the Code Subscribers, CoreLogic. The Code prescribes in 5.1.2 that the Industry Representative be a person of relevant experience at a senior level who is nominated by a simple majority of Code Subscribers.

The Administrator is an employee of CoreLogic who is made available by CoreLogic to perform the duties of the Administrator which include secretariat functions for the Committee. The Administrator does not perform any decision making functions and only participates in meetings in a secretariat capacity.

If a conflict of interests was to arise with an investigation of an alleged breach of the Code by CoreLogic or one of CoreLogic’s clients, the Industry Representative would abstain from decision making in the matter.

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<sup>5</sup> Office of the Federal Privacy Commissioner Guidelines to the National Privacy Principles

The costs of the Code Oversight Committee are met by the Value Added Property Information Brokers Association Incorporated. Clause 5 of the Code requires that the Committee be funded by levying membership fees and/or complaint administration fees on Code Subscribers. All Code Subscribers must be members of VAPIBA and pay their membership fees. These fees have, to date, been sufficient to meet the costs of the Committee. To date there has been no need to levy complaint administration fees.

Fees are paid to the Chair and to the Consumer Representative for their work on behalf of the Committee.

Neither the Industry Representative nor the Administrator is remunerated for Committee work. They are paid for their time on Committee matters through their primary employer.

The Code is entirely funded by the Code Subscribers. No government funding is provided.

### **Assessment**

The reviewer believes that the Code Oversight Committee operates independently.

### **Other matters**

The Code Oversight Committee indicated that it wanted the following specific areas reviewed:

- Co-operation between Code Subscribers and the Committee to achieve the objectives of the Code of Conduct
- Complaint handling processes
- Suppression request processes
- The Committee's decision making procedures with respect to alleged breaches of the Code and whether these accord with the principles of procedural fairness, allowing for assessments and decisions of a matter to be based on fairness, other relevant industry codes of conduct and good industry practice
- The promotion and marketing of the Code of Conduct.

### **Co-operation between Code Subscribers and the Committee to achieve the objectives of the Code of Conduct**

#### **Discussion**

It is a requirement under the Code that Subscribers must reasonably co-operate with all requests to suppress QVAS-identified information.

The Code Oversight Committee reported that in general terms the level of co-operation between the Code Subscribers and the Committee is considered by the Committee to be high. Code Subscribers are responsive to requests from the Committee and co-operate in the achievement of the objectives of the Code of Conduct. One Code Subscriber did express a view that there should be more involvement of the totality of the Subscribers. This issue could

be addressed by Subscribers becoming involved in an annual workshop as recommended above.

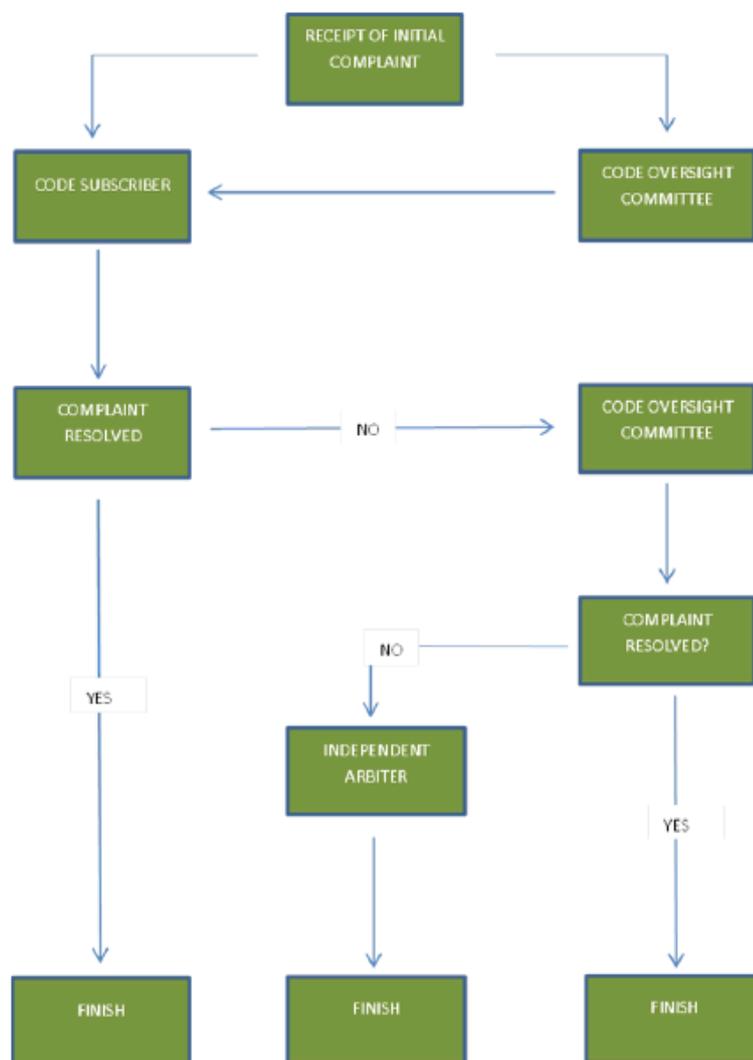
### Assessment

Feedback from the Committee, DNRM and Code Subscribers indicates that co-operation between Code Subscribers and the Committee to achieve the objectives of the Code of Conduct appears to be working well.

### Complaint handling processes

#### Discussion

Consumers can lodge a complaint with a Subscriber (information broker) or with the Committee if they believe that prohibited direct marketing has taken place, or if the Subscriber or their customers have otherwise breached the Code. The process for resolving complaints under the Code was arrived at after considering complaints processes across a broad range of industries. The process is outlined in the following flow chart:



Code Subscribers are obliged to establish binding agreements with their customers, agents or other third parties wishing to access QVAS information. These agreements must reflect the prohibition on direct marketing using personal identification information. Further, the Code requires all Subscribers to have a documented internal dispute resolution framework for dealing with consumer complaints.

#### *Lodging a complaint with a Subscriber*

The Code of Conduct's website contains contact names and other details for the nominated complaints officer for each Subscriber.

If the consumer remains dissatisfied with the Subscriber's response or where the complaint has not been resolved within 30 days, the consumer can escalate the complaint to the Committee by giving written notice of a dispute.

#### *Lodging a complaint with the Committee*

Written notification of complaints and supporting material may be lodged by email or post with the Committee. If the complaint is not covered by the Code the consumer will be advised in writing.

If the complaint falls within the ambit of the Code, the Committee will investigate and will make a decision.

The circumstances in which the Committee may decline to consider a complaint include:

- complaints which do not involve a breach of the Code;
- where the relief sought is outside the Committee's powers or authority as provided for by the Code;
- where consumers do not authorise the Subscriber or the Committee to disclose their name and service address to the data user, who it is alleged is in breach of the Code, when it is necessary to investigate and determine the complaint;
- complaints that on the balance of probabilities have no basis in fact;
- complaints that arose prior to the date of commencement of the Code, 1 October 2009; and
- complaints that the Committee has already considered and determined to have no reasonable grounds for the matter to be re-opened.

The Committee will not usually consider a complaint that has been settled. An exception may arise if there is evidence of serious or systemic breaches of the Code or if the data user has not complied with the terms of the complaint's settlement.

The Committee will not accept complaints brought outside the following time limits:

- where the event occurred before the Subscriber became a subscriber to the Code;

- where the act or omission occurred more than 12 months before the date on which the consumer made the complaint to the Subscriber in writing;
- where the complaint is between a consumer and a data user, the business of which has been acquired by a Subscriber, and if that agent was not an agent of the Subscriber at the time the events (which are the subject of the complaint) occurred.

If either the Subscriber or the consumer is not satisfied with the Committee’s decision, the Code allows them to apply to an independent arbiter. The cost of the arbitration is borne by the Subscriber, with no fee payable by the consumer. The decision of the independent arbiter is binding on both parties.

Of the total 22 complaints received during 2016–2017, most involved alleged breaches by real estate agents. Of the complaints received, six were received from the public by the Code Oversight Committee while 16 were received by Code Subscribers.

After investigation, six breaches of the Code of Conduct were found to be substantiated. In all cases, it was the agent’s first breach and the agent was given a warning and required to attend training on their obligations under the Code of Conduct, with an emphasis on the prohibition of direct marketing. As no agents committed subsequent breaches, no agents were added to the Register of Excluded Parties. Entities on the Register cannot access QVAS name and service address data. There are currently no agents on the Register of Excluded Parties.

*Table 1 – Complaints received*

	1 July 2011 to 30 June 2012	1 July 2012 to 30 June 2013	1 July 2013 to 30 June 2014	1 July 2014 to 30 June 2015	1 July 2015 to 30 June 2016	1 July 2016 to 30 June 2017
Complaints Received	47	22	65	30	37	22

#### *Registers of Excluded Parties*

There was no addition to the Register of Excluded Parties in 2016–2017.

The Code Oversight Committee was asked how visible and accessible (a) each member’s and (b) the Code Oversight Committee’s complaints handling is to consumers, particularly at the time of the transaction.

In relation to (a) the Committee responded that it monitors Code Subscribers’ internal complaint handling processes. A couple of years ago the Committee became concerned that

some of these processes were not as thorough or timely as they should be. In response, it developed guidelines and templates for Code Subscribers' Privacy Officers, in order to establish a more consistent and sound basis for complaint handling and resolution. The Committee conducted an online training session when the guidelines were launched and has continued to conduct annual teleconferences during which officers can share information and ask questions. Each Subscriber must report on its internal Code-related complaint numbers for the Annual Report.

The Committee has recently written to Value Added Property Information Broker Association (VAPIBA) with the following terms:

*The Committee requests that Code Subscribers review their agreements with their customers, to ensure that they are complying with the mandatory provisions and the prescribed form of words set out in the licence agreement with the Department of Natural Resources and Mines and also in the Code of Conduct. Furthermore, members are asked to consider whether or not they are meeting their obligation to promote both the Code generally and the Prohibition on Direct Marketing in particular through the agreements they have with their customers. The Committee has conducted an informal review of the terms and conditions of a sample of the published agreements between Code Subscribers and their customers, and found that not all contained the mandatory provisions set out in the licence agreement or in the Code, nor did they adopt the prescribed form of words set out in the Code and the licence agreement. Furthermore, the obligation to promote the Code was not uniformly observed.*

While this letter targets Code Subscribers, the aim is to ensure that Code Subscriber customers are fully apprised of their rights and obligations.

In relation to (b) the Committee indicated that it can sanction Code Subscriber Customers who breach the Code by adding them to the Register of Excluded Parties. This means they are ineligible to receive QVAS name and service address data from any Subscriber for the period of time imposed by the Committee.

On the issue of receiving and investigating unresolved complaints, the Code Oversight Committee indicated that the referral to the Committee of complaints which have been not been resolved by the relevant Code Subscriber occurs occasionally. The Committee monitors internal complaint handling and may request a Code Subscriber Privacy Officer to escalate a matter to the Committee if it is taking too long to resolve or if the consumer is unhappy with the response. It is rare for the complainant to refer an unresolved complaint to the Committee. It did occur in one case several years ago and the Committee worked with the Code Subscriber and the complainant to resolve the matter.

In response to the question as to how visible and accessible (a) each member's and (b) the Code Oversight Committee's complaints handling to consumers is, particularly at the time of transaction, the OFT replied that it provides information on property data on its website for consumers who may be buying or selling property. The information advises, "*The Queensland government stores some personal details in our property data, which individuals or companies may access. A code of conduct regulates how people may access this data*". A link is provided to the Personal Identification Information in Property Data Code of Conduct web page.

## **Assessment**

It is noted that the number of complaints in the last reporting year is 22, down from 37 the previous reporting year. One interpretation of these figures is that the process is working well, giving less cause for complaints.

One Code Subscriber noted that there has been a decrease in Code complaints since the last review and suggested that such a decrease could be, in part, attributed to the Code Oversight Committee's proactive engagement with VAPIBA members as well as the continued education and awareness of the Code by the Committee and the VAPIBA Members.

It is also noted that the majority of complaints involved real estate agents. There is discussion below under promotion about how agents' obligations under the Code need to be regularly promoted.

While Code Subscribers believed that the Code provides an effective method for dealing with privacy complaints when related to direct marketing, one Subscriber indicated that it occasionally receives complaints that are not related to direct marketing activities but where the complainant has alleged that another has encroached upon their privacy. They thought that there is little policy guidance relating to how these types of privacy complaints should be dealt with by Code Subscribers (or the Committee) and the circumstances where it is more appropriate to refer these complaints to the Office of the Australian Information Commissioner.

Given the current uncertainty about how these complaints should be dealt with, the reviewer believes that a clear policy should be developed and implemented and therefore **recommends** that the Code Oversight Committee consider obtaining its own independent legal advice in order to develop a policy and process about how best to handle Interference Complaints when they are received.

## **Suppression request processes**

### **Discussion**

#### *Committee suppression*

Individuals can apply to the Committee to suppress the names of the persons who are purchasers or vendors of properties in Queensland and their service addresses. Corporate

property owners are not eligible to apply for suppression. A current Council rates notice must be provided to the Committee as proof of ownership and the applicant’s standing to make the request. Once suppression requests are approved, Code Subscribers are advised and they then apply the suppressions to their databases. Code Subscribers must suppress any personal identification information within their systems within 30 days of receiving the request from the Committee.

#### *Land Valuation Act 2010*

Consumers who want to apply to suppress their personal information at the source, namely in DNRM’s valuation roll, can make an application under the Land Valuation Act 2010 at [www.dnrm.qld.gov.au](http://www.dnrm.qld.gov.au). However, the only reason for which the Valuer-General will suppress ownership details in the valuation roll is one of risk to a person’s safety or property, whether the person is the landowner or a person living at that address (s188 of the Act). If granted, a suppression direction by the Valuer-General will be effective for five years and may be renewed on a further application. Where a suppression direction is granted, the person’s details will also be suppressed from the results of a name search of the relevant land register. The person’s details will not be provided to Code subscribers.

### Suppressions

#### *Suppressions under the Code during 2016–2017*

During 2016–2017 there were 96 suppression requests approved by the Committee.

*Table 2 – Total of approved Suppression Requests*

	1 July 2011 to 30 June 2012	1 July 2012 to 30 June 2013	1 July 2013 to 30 June 2014	1 July 2014 to 30 June 2015	1 July 2015 to 30 June 2016	1 Jul 2016 to 30 June 2017
lodged	46	43	43	44	59	96

In response to a question as to whether procedures to prevent QVAS data being used for unsolicited direct marketing work effectively, the Code Oversight Committee indicated that the procedures adopted by the Code Subscribers to train their data customers and emphasise the prohibition on unsolicited direct marketing using QVAS data are considered to be reasonably effective. However the VAPIBA letter stressed the need to promote the Code and to include the mandatory provisions in agreements with customers. The Committee is concerned that these obligations are not being uniformly observed.

When asked whether the procedures to prevent QVAS data being used for unsolicited direct marketing were working effectively the Office of Fair Trading (OFT) replied in the negative. The OFT reported that it has been receiving complaints and enquiries since the Code’s existence surrounding real estate agents and agencies using private information to make direct marketing contact to consumers within weeks of their property going on the market.

The OFT believed that more enforcement by the DNRM to prevent inappropriate use of data would send a stronger message to the real estate industry. As the OFT regulates the real estate industry in Queensland and can take the suitability of licensees into consideration in terms of their licence, the OFT should raise this issue with industry to ensure they are aware that disciplinary action may be taken under real estate legislation, or licence renewal rejected, for real estate agents found to be continually breaching the Code. Given that real estate agents have been more likely than other data users to commit breaches of the Code, promotion of the Code by OFT in its communications with real estate agents, given its regulatory role, would appear to be desirable and serve as a good opportunity for collaborative promotion, reinforcing the message through the agency responsible for licensing real estate agents.

In response to a question as to whether the Committee saw a need to clarify the length of time that a suppression should remain in place (e.g. the number of transactions) and that the historical information about a transaction become available, the Committee responded that in terms of protecting consumers from unsolicited direct marketing and protecting their privacy in terms of their connection with a particular property when that is most relevant (i.e. when the consumer has become the current owner as the purchaser, and the immediate past owner when they have been the vendor), the expiration of the suppression after the next transaction for a property is considered appropriate.

The Galexia report<sup>6</sup> stated that some requests take time to be validated and may require additional proof of ownership. This raises the question as to how long the average requests take and whether there have been any improvements in timing since this report.

The Code Oversight Committee responded that Consumers are advised that they must provide a Council rates notice or an extract from the Council rates records (a) as proof of ownership and (b) to ensure that the consumer's details identifying the correct property are suppressed. Delays in suppression can occur when it takes time for consumers to acquire a rates notice or an extract from Council records.

If a consumer applies for suppression at the time the property is purchased, then it may take several weeks for the data to be processed by DNRM and for the names and service addresses to become available to Code Subscribers from the QVAS database. During this time the consumer's identified information is not at risk because it is not in the Code Subscriber's database and cannot be accessed by their customers.

Where the consumer's personal safety or property is at risk and urgent action needs to be taken, consumers can make a case to DNRM to suppress their information 'at the source' as provided for in the Valuation of Land Act. If DNRM suppresses the names and service address it means that the information will not be provided to Code Subscribers.

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<sup>6</sup> Personal Identification Information in Property Data (PIIPD) Code Oversight Committee–PIIPD–Code of Conduct Review–(v15 4 March 2013)–(Galexia Ref: GC417) at p15

## Assessment

The Committee believes that the online suppression process continues to result in effective suppressions. In addition to the storage of all applications in the online database, a Suppression Request Register has been established. The Register accurately records:

- Date of suppression application
- Names of the Applicant(s)
- Lot/plan numbers
- Address information
- Status of the suppressions (approved, declined, pending)
- If declined, the reason for such and if pending, the date the owner was emailed to request proof of ownership.

Further, all evidence of proof of ownership (rates notices/extracts) is saved for the Committee's records.

A large percentage of suppression applications are made without attaching adequate proof of ownership which leads to the process being prolonged, and extra work for the administrator who has to explain to the applicant what proof is required and why, and where the brokers source their data. Most of these requests are made either during sale or very shortly after, in circumstances where DNRM and consequently the brokers do not yet have the data to suppress.

The Committee suggested potential improvements as follows:

- Make the 'Proof of Ownership' section on the Code of Conduct website application more obvious (in a box to itself)
- Include one or two 'check boxes' or 'pop up boxes' on the online application form to ensure that the applicant understands the information listed above on the same page, e.g. 'I understand I am applying to have my name and service address suppressed' AND another checkbox stating 'I understand I am required to provide a rates notice or extract for my application to be approved and that no other document will be accepted as proof of ownership'.

The reviewer supports the suggested improvements put forward by the Committee.

The Committee was concerned that the need to promote the Code and to include the mandatory provisions in agreements with customers was not being uniformly observed. The reviewer supports the Committee's initiative in this important area.

A Code Subscriber suggested that a small improvement to assist with applying suppressions would be to include the real property description in the suppression email. Currently the email received by brokers includes only the property address.

As pointed out the Code Oversight Committee recently provided a letter to all members of the VAPIBA regarding third party applications for the suppression of names and service addresses. The letter proposes that the current process of requiring suppression applications only from the owners of the relevant property be extended to include applications from solicitors acting on an owner's instructions, or from other third parties with the owner's authorisation.

One Code Subscriber considered that suppression requests should only be accepted and processed when received from the property owner or owners (or their appointed attorney/s) for the following reasons:

(a) Suppression requests received by the Code Oversight Committee should be dealt with in a manner which is consistent with the mechanisms outlined under s186 of the Land.

Valuations Act 2010 (Qld) regarding the making of applications for a suppression direction, and s36 of the Privacy Act regarding the making of complaints about interference with privacy:

(i) s186 of the Land Valuations Act 2010 (Qld) provides that applications for a suppression direction may only be made by the owner or owners of the parcel.

Where there are two or more owners, one owner may make an application on behalf of all owners;

(ii) s36 of the Privacy Act 1988 (Cth) provides that complaints must be made by the relevant individual;

(iii) under the Privacy Act, the only basis upon which a representative may make a complaint is where the complaint is made on behalf of a class of individuals where the complaint arises out of the same circumstances (s38), which is unlikely to arise in respect of an application for a suppression direction under the Code.

(b) The current application process is a simple and time efficient internet-based process, and in most circumstances would not require the assistance of a solicitor.

(c) As noted by the Committee in its letter dated 31 July 2017, if applications for a suppression direction may be made by representatives, this could open the door to abuse of process. The publication of ownership and title information supports the Torrens title system of title by registration. The notion of indefeasibility of title requires open and transparent access to property titles information, without which the system would collapse and enable greater instances of fraud.

On the basis of the above, the Code Subscriber submitted that requests for a suppression direction should be limited to the individual owner, or where there are several owners, one of the owners may make the application on behalf of all owners. It further suggested that applications should not be made on behalf of an owner other than where the owner's

representative holds a power of attorney. The appointment of an attorney is the mechanism at law to accommodate individuals who do not have the ability or capacity to act on their own behalf (such as through disability or otherwise). In these circumstances, it would also suggest the representative should be asked to provide written evidence of their appointment under a Power of Attorney.

I think that the submission by the Subscriber has some merit. In particular, I find the argument that the current application process is a simple and time efficient internet-based process, and in most circumstances would not require the assistance of a solicitor, quite compelling.

The application for suppression is, and should remain, a relatively user-friendly process.

The involvement of solicitors could result in a more legalistic and expensive approach. That said, I find the Subscriber's suggestion that applications should not be made on behalf of an owner, other than where the owner's representative holds a power of attorney, too limiting. A halfway approach would be to allow property owners to authorise a third party to act on their behalf using a written authorisation. While this is not set out in the Privacy Act, the Office of the Privacy Commissioner has advised that there is nothing in the Act that prevents such an authorisation.<sup>7</sup> On its website, the OPC confirms that the Privacy Act does not prevent an agency or organisation from dealing with a third party authorised by an individual to act on his or her behalf. The OPC goes on to note that organisations have a variety of procedures to ensure appropriate authorisation, including identity validation procedures. The OPC suggests that some organisations with existing customer verification procedures for telephone services may use such procedures for authorisation of third parties. The OPC also notes, however, that an organisation may decide that the circumstances and risk require a more robust authorisation process, such as the provision of written authorisation.

## **The Committee's decision making procedures with respect to alleged breaches of the Code**

In relation to the Code Oversight Committee's current decision making procedures with respect to alleged breaches of the Code and whether these accord with the principles of procedural fairness, the answer received from the Committee was in two parts.

### *Subscriber complaint handling*

Procedural fairness will be accorded provided Code Subscribers follow the Committee's complaint handling guidelines. However it is important to note that the Committee only hears about internal complaints if there is a breach, as the Subscribers are obligated to notify it. Code Subscribers are required to inform the Committee at 30 June each year of the number

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<sup>7</sup> Office of the Privacy Commissioner, *FAQs: Can I Authorise Someone to Act on My Behalf when Dealing with a Business?* <[www.privacy.gov.au/faqs/ypr/q14.html](http://www.privacy.gov.au/faqs/ypr/q14.html)> at 25 March 2008

of Code-related complaints they have dealt with during the preceding 12 months and these statistics include both breaches and non-breaches.

The Committee only takes action where the number of breaches or seriousness of the breach or breaches justifies, in the Committee's view, listing on the Register of Excluded Parties. As a matter of Committee policy 'first offences' where the agent does not have a history of breaches will result in a warning to the agent and the requirement for the agent to attend training in QVAS data use by the Code Subscriber with whom they have their data supply contract.

#### *Committee complaint handling*

For the purposes of this response it is assumed that the alleged breach has been perpetrated by a real estate agent ('the agent').

1. Upon receipt of a complaint, and with the complainant's consent, the agent is contacted and asked to explain the source of the data used in direct marketing to the complainant.
2. If the agent responds with an explanation, this is referred to the complainant for comment.
3. Additional information may be sought from both parties.
4. The Committee receives and considers an investigation report on the complaint.
5. If on the evidence adduced and on the balance of probabilities it is considered that a breach may have occurred, the Committee writes to the agent, explains the evidence provided to the Committee, informs them that the Committee considers a breach may have occurred and asks the agent to respond within 14 days, showing cause why a breach should not be found.
6. After receipt and consideration of the response from the agent, if the Committee finds that a breach has occurred, the Committee writes to the agent and informs them that a breach has been found and what, if any, sanction the Committee is contemplating imposing on the agent. The agent is given an opportunity to respond within seven days to show cause why the contemplated sanction should not be imposed.
7. After receipt and consideration of the agent's response, the Committee informs the agent of what, if any, sanction has been imposed.

In relation to sanctions the Code Oversight Committee has imposed on Subscribers for failure to comply with the Code, to date there have not be any instances where Code Subscribers have been found to have breached the Code.

Breaches of the Code have occurred with Code Subscriber Customers and if sanctions have been considered by the Committee to be warranted those Code Subscriber Customers have

been added to the Register of Excluded Parties for specified periods of time. Where firms are added to the Register of Excluded Parties all Code Subscribers are informed so that denial of data access occurs for the period of listing on the Register.

The number of listings on the Register of Excluded Parties is also reported in the Annual Report each year.

Subscribers contacted believed that the documented procedures for the Committee to handle complaints about alleged breaches of the Code appear to accord with the principles of procedural fairness.

### **Assessment**

The Code Oversight Committee's current decision making procedures with respect to alleged breaches of the Code accord with the principles of procedural fairness.

## **The promotion and marketing of the Code of Conduct**

### **Discussion**

The Code Oversight Committee has promoted the Code to the Real Estate Institute of Queensland (REIQ) for the information of its members who are a prime user group of QVAS data.

The Committee has also in the past sent correspondence to the Consumers Association of Queensland informing them of the Code, and attaching copies of Annual Reports.

The most immediate way for consumers to be informed of the Code and the right to suppress their personal information would be to include a **prominent** consumer information statement in the standard REIQ contract for the sale of land. However it is acknowledged that this is already a crowded document and all stakeholders, including the Law Society, would have to agree that this is warranted.

The Consumer Representative on the Code Oversight Committee thought that there should be more information on the REIQ website and that the DNRM's documents should be amended to include the missing information in its information privacy documents. She also highlighted the obligation on Code Subscribers to promote the Code on their websites.

In response to the question as to whether it believed that the promotion and the marketing of the Code was effective, the OFT replied that it was unaware of the promotion and marketing of the Code of Conduct. The OFT recommended a campaign to provide information through real estate associations such as the REIQ, the Australian Resident Accommodation Managers Association and training operators who provide real estate licence training to ensure those entering the profession along with those in the industry are across the implications of the use of private data.

In response to a question to the REIQ about promotion of the Code to real estate agents, it responded that in terms of Code awareness activities, it has previously produced an education video on the Code, which featured Core Logic's Legal Counsel. This video was made available to all members. REIQ has also included articles in past REIQ Journals and has recently asked Core Logic to prepare an article for inclusion in its member resources area and in the REIQ Journal.

REIQ indicated that it has been some time since it delivered educational content on this issue and that it would welcome the opportunity to deliver more training on this important topic and to work more closely with the Committee.

### **Assessment**

Clearly there is scope for promotion of the Code to raise its profile. There are at least two important target audiences for the promotion of the Code.

One is *real estate agents* who need to be made aware of the Code and observe the prohibition of unsolicited direct marketing using QVAS names and service address data.

As noted above REIQ has, in the past, been active in promoting the Code.

REIQ indicated that it has been some time since it delivered educational content on this issue and that it would welcome the opportunity to deliver more training on this important topic and to work more closely with the Committee.

This reviewer supports promotional activity by REIQ which could include:

- more information about the Code and real estate agents' responsibilities on the REIQ website;
- reintroduction of the education video and promotion of it to members;
- regular articles on the Code; and
- material on the Code and agents' responsibilities.

Another important target audience is the *public*, particularly those involved in property transaction. As discussed under Accessibility, both the Code Oversight Committee's brochure and website contain user-friendly information about what the Code has to offer consumers. The challenge is to make this material more visible to this target audience.

As also indicated above, not all Code Subscribers are promoting the Code on their websites in the same way. For this reason Code Subscribers need to demonstrate that they are providing information in accordance with their obligations under the Code, and the Committee has asked all Code Subscribers to self-audit the information they publish on their websites and in their Terms and Conditions. This form of promotion is more aimed at their data customers to alert them to their obligations concerning how they use data. In one submission the reviewer was informed that it was considered that the CoreLogic website represents best practice in

this area whereas others details were ‘buried’ in the website rather than being prominent. Another Subscriber indicated that it put out newsflashes to their data customers, e.g. when there are changes to the Code, and that when they do suspect breaches of the Code it reminds people of their obligation.

One Code Subscriber promotes the Code through its Privacy Policy and product Terms of Use which are easily accessible online. When accessing certain data, users of the Subscriber’s products are also required to acknowledge that they will comply with its Terms and Conditions including the prohibition of using the information for direct marketing purposes.

This Subscriber’s trainers are equipped to promote and increase awareness of the Code during their training to real estate agents and it continues to work with the Real Estate Institute of Queensland (REIQ) to promote the Code, including the preparation of training resources for REIQ members. In addition the Subscriber will shortly publish a journal article with REIQ for the purposes of raising awareness of the Code.

This reviewer commends the actions of this Subscriber and believes it serves as a benchmark for other Subscribers.

Given that in recent years there have been changes in Code Subscriber ownership and corporate structures as well as changes to the Code itself, the reviewer **recommends** that Code Subscribers should review the information about the Code on their websites as well as their Terms and Conditions for their customers.

## Code compliance management systems

### Discussion

The ACCC codes guide on codes<sup>8</sup> states that a Code administration committee needs to ensure that each participant has some form of in-house system to ensure compliance with the Code.

I note that one of the stated roles of the Code Oversight Committee is to monitor compliance with the Code by its Subscribers and their clients and to ensure ongoing effective operation of the Code’s requirements. I have interpreted this to cover monitoring for compliance of:

- Adequacy of Code compliance systems;
- Subscribers’ complaint handling processes; and
- Subscribers’ suppression processes.

The Code Oversight Committee indicated that each Code Subscriber is responsible for compliance with the Code by both itself and its data customers. Each Code Subscriber has an appointed Privacy Officer who is responsible for responding to complaints under the Code.

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<sup>8</sup> ACCC Guidelines for developing effective voluntary industry codes of conduct, at p.10

The Committee communicates with these Privacy Officers on an individual basis and annually convenes a teleconference with all Privacy Officers to discuss trends and developments in complaints and the administration of the Code.

Each Code Subscriber also has access to in-house legal counsel to advise them on their compliance responsibilities.

The Committee also monitors complaint handling by Code Subscribers and promotes general compliance with the Code, e.g. by checking whether or not Subscribers are complying with their obligation to include prescribed terms in agreements and to promote the Code.

### **Assessment**

It would appear that Code Subscribers have adequate compliance systems in place to act on suppression requests. That said, not all Code Subscribers appear to be promoting the Code on their websites which may be a breach of their obligations under the Code. An audit of the Code Subscribers' websites would ensure that they are meeting the Code's requirements in this area. It is the reviewer's opinion that the CoreLogic website represents best practice in this area.