

BKM

ATTORNEYS NOTARIES & CONVEYANCERS

HOW TO PROTECT YOURSELF FROM UNWANTED DIRECT MARKETING



The Consumer Protection Act 68 of 2008 ("the Act") has provided the consumer with a variety of rights¹. Among these rights is the consumer's right to privacy² which includes the right to **restrict unwanted direct marketing** as well as regulate the time at which the consumer may be contacted.

Direct Marketing means to approach a person (by mail or electronic communication) for the direct or indirect purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the person or requesting the person to make a donation of any kind for any reason. The right restrict unwanted direct marketing allows the consumer to request that such communications be discontinued and even to pre-emptively block these communications. The consumer may register a pre-emptive block on the registry at <https://www.nationaloptout.co.za>. Where a pre-emptive block is registered, it may be general or specific. General in that the consumer prohibits all direct marketing communications or specific in that only direct marketing communications from a particular industry or sector is prohibited. Where the consumer has requested that the

¹ Chapter 2 of the Act.

² Section 11 and 12 read with Regulation 4.

direct marketing stop, the supplier or marketer may not demand that the consumer pay any fee for this. Suppliers should accordingly consult this registry before contacting any consumers.

In addition, where a consumer displays the above sign stating “no adverts” which has been provided in the Regulations³, a direct marketer may not in that instance place or attach any material primarily aimed at direct marketing in whichever format. The direct marketer must in addition confirm in writing to the consumer that they are in receipt of the “no adverts” statement alternatively the “unsubscribe” request from the consumer.

The Regulations further regulate the time at which consumers may be contacted⁴ and the Minister has prescribed specific days, dates, public holidays or times of days that are to be “prohibited” for direct marketing purposes. One may not engage in any direct marketing to a consumer at the consumer’s home on the following days, dates, public holidays or times of day:

- Sundays or public holidays contemplated in the Public Holidays Act 36 of 1994;
- Saturdays before 09h00 and after 13h00; and
- All other days between the hours of 20h00 and 08h00 the following day.

We hope the above is of interest to you.

Written and prepared by

Lauren Hastie

BOUWER KOBELI MORABE

Please do not hesitate to contact us on +27 11 788-0083 should you have any further enquiries or email enquiries@bkm.co.za.

“BKM Attorneys - Passionate about Law”

³ Regulation 4.

⁴ Section 12 of the Act.