

## CUSTOMER DATA ACCESS GUIDELINES



ARTS COUNCIL OF NEW ZEALAND TOI AOTEAROA

ARTS  
RESEARCH &  
TICKETING  
SERVICES AUSTRALIA



ARTS Australia

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Over 60 industry participants in the research phase, including from  
arts organisations, venues and ticket companies

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## INTRODUCTION

Creative New Zealand has commissioned these guidelines to help New Zealand arts organisations to better access and manage their customer data.

Developed primarily as an audience development resource, they aim to encourage best practice by bringing together and interpreting the various pieces of legislation affecting the collection and use of personal data.

It is increasingly important for arts organisations to have access to the customer data of the events they own, so they can effectively engage with these customers and develop their audiences. We are pleased to provide clarity and best practice advice on the access, use and disclosure of customer data.

More than 60 participants took part in the research and development of these guidelines, including arts organisations, venues and ticketing companies.

This work has resulted in a very positive outcome. The Office of the Privacy Commissioner and the Department of Internal Affairs have advised that ticketing companies and venues adhering to these guidelines can provide arts organisations with customer data for the events they own or present.

I would like to thank the Office of the Privacy Commissioner, Department of Internal Affairs and the Event Venues Association of New Zealand (EVANZ) for their contribution and, especially, Tim Roberts of ARTS Australia who researched and compiled this document.

A handwritten signature in black ink, appearing to read 'S. Wainwright', with a stylized flourish at the end.

Stephen Wainwright  
Chief Executive  
Creative New Zealand

# 1. About these Guidelines

## 1.1 Purpose of the Customer Data Access Guidelines

We all want to grow our audiences and we often talk about “Audience Development”. To develop arts audiences depends on finding new audiences and also identifying and retaining current audiences and encouraging re-attendance with increasing frequency, recency and expenditure. Audience development is critical to our work and our survival, and yet we often go about it in ways that are not necessarily very effective.

From competitive necessity, most marketers are now innovatively applying new technology to move beyond transaction marketing, which is handicapped by a short-term focus. Transaction marketing is an inefficient attempt to mine dormant demand by using the ignition of expensive mass media. Relationship Marketing moves an organisation from this short-term transaction emphasis to a much more sustainable longer-term customer focus.

Effective Relationship Marketing using Customer Relationship Management (CRM) tools is the essential foundation and cement of sustainable audience development: we need to understand who our potential audiences are and find ways to engage with and then retain them, quite apart from maintaining our existing audiences.

Currently, however, most performing arts organisations are distanced from their customers by their reliance on third-party venue operators and box office or ticket agencies. It’s therefore difficult for them to get the information they need about the people who attend their events – their customers. The purpose of these Guidelines is to attempt to address those barriers, by documenting ways that arts organisations can work in partnership with the other industry members to gain access to customer data that will in turn inform Audience Development and CRM strategies.

It’s not the intention of these Guidelines to persevere with the “who owns the customer” debate. After all, **everyone** wins from the increased sales numbers and revenue that result from substantial audience development – the venues, the ticketing companies, the producing arts organisations, and the consumers. Instead, the aim is to develop a common understanding of the issues and of how to interpret the relevant legislation and apply it responsibly. The guidelines contained in this document are intended to help the parties work cooperatively and responsibly, within the boundaries of the legislation, to develop audiences for the arts to the benefit of all the industry members.

The component issues have been researched with advice provided by the Office of the Privacy Commissioner (which administers the Privacy Act 1993) and the Department of Internal Affairs (which enforces the Unsolicited Electronic Messages Act 2007).

## 1.2 Structure and scope of these Guidelines

These Guidelines explain the context of the problem of access to customer data, summarise the legal requirements, and give guidance to arts organisations and ticketing service providers on interpreting and complying with the law:

- Section 2 explains the background and larger context for this Guidelines project: see page 4.
- Section 3 clarifies and explains some central concepts and defines the different terms used in the document: see page 7.
- Section 4 summarises the relevant legislation – the Privacy Act 1993 and the Unsolicited Electronic Messages Act 2007 (the anti-spam legislation) – and explains how these Acts apply in practice to the issues of access to and use of customer data: see page 12.
- Section 5 discusses some specific means that arts organisations, ticketing companies and venues can use to ensure that arts organisations have access to customer data while complying with the legislation: see page 22.
- Section 6 discusses other, more general ways of managing an organisation’s Privacy Act obligations – specifically the use of Privacy Notices and the role of Privacy Officer: see page 25.

## 2. Background and context for this project

### 2.1 Why Creative New Zealand is focusing on this problem

This Guidelines project is part of an ongoing review of capability-building strategies and initiatives delivered by Creative New Zealand to enable artists, practitioners and arts organisations to increase and diversify their audiences.

Creative New Zealand’s statutory purpose is “to encourage, promote and support the arts in New Zealand for the benefit of all New Zealanders.”<sup>1</sup> In achieving this purpose, Creative New Zealand is required to recognise and uphold the principles of participation and access. Audience growth is important to upholding these principles and to maintaining a professional arts infrastructure. Creative New Zealand is therefore committed to giving arts organisations the confidence and skills to become more effective at using customer data to develop audiences for their art.

Over the past five years, however, it has become increasingly clear that many arts organisations are not realising the potential to develop CRM strategies, because they face difficulties in accessing and using customer data. Without access to their customer data, arts marketers are attempting to develop audiences without a vision of the marketplace – they’re blind to who is attending, who isn’t, and who could or should be.

### 2.2 The research behind these Guidelines

Tim Roberts of ARTS Australia ([www.artsoz.com.au](http://www.artsoz.com.au)) was commissioned by Creative New Zealand to research the issues around access to customer data, with the goal of helping arts organisations and individual artists and practitioners to understand the best way to obtain customer data for audience development and marketing purposes.

The specific questions to be addressed by the research project were as follows:

1. What are the key issues in gathering and using data?
2. What is the current skill level in developing and implementing CRM strategies?
3. What are the issues, challenges and opportunities in building capability in data and CRM principles?
4. What challenges do organisations and practitioners face in recapturing the relationship with audience members/customers?
5. How might organisations overcome the barrier of exclusive venue contracts and lack of venue investment in audience development?

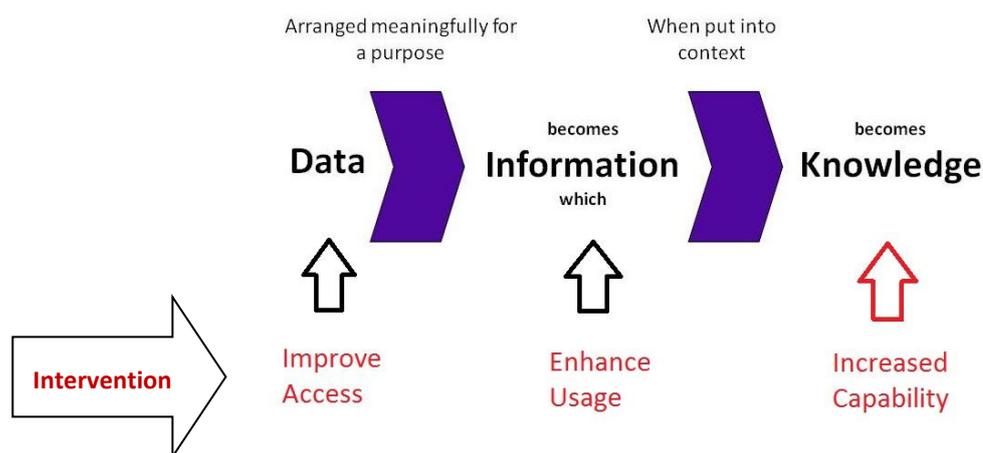
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<sup>1</sup> Arts Council of New Zealand Toi Aotearoa Act 1994, section 4.

## 2.3 The larger context

Customer data is the raw resource for developing audiences. In recognition of this, CRM is often described as “information-enabled relationship marketing”. However, data is meaningless without analysis and context. Knowledge of your audiences is essential for developing marketing strategy.

The following model places this Guidelines project in context.<sup>2</sup>



Following the research conducted in Step 1 to improve access, the next two steps – Enhance Usage and Increased Capability – are now being implemented. These Customer Data Access Guidelines are an important building block for those steps.

The three project Steps are discussed in more detail below:

### 1. Improve access:

- Research access to customer data and the potential barrier presented by venue-exclusive ticketing contracts
- Explore options for better access for event owners to the data to inform audience-development activities.

Over 60 representatives of New Zealand companies were interviewed as part of the research to inform this first step in the project. Eighteen interviews were conducted in person on visits to Auckland and Wellington in November 2010, and 32 were conducted by telephone over this period. The interviewees included representatives of arts organisations, venues, all major ticketing companies, and industry coordination bodies, as well as officials and legal experts from government agencies.

<sup>2</sup> Adapted from: S Davies & J Botkin, “The coming of knowledge-based business”, *Harvard Business Review*, Sept/Oct 1994.

## 2. Enhance usage:

- Research current skill levels and resources in arts organisations to deliver CRM functionality
- Define the challenges to relationship marketing and professional development to improve skills and practices.

## 3. Increased capability:

- Address potential barriers to data access
- Develop the skills and practices to improve organisational capability to better manage and develop audiences for the performing arts.

## 2.4 Project partners

There are several partners who have provided advice, assistance and cooperation in the course of this project:

- **Office of the Privacy Commissioner ([privacy.org.nz](http://privacy.org.nz))**  
The Privacy Commissioner seeks to develop and promote a culture in which personal information is protected and respected.
- **Department of Internal Affairs ([www.dia.govt.nz](http://www.dia.govt.nz))**  
Among other responsibilities the Department tackles spam by enforcing the Unsolicited Electronic Messages Act 2007.
- **Entertainment Venues Association of New Zealand (EVANZ – [www.evanz.co.nz](http://www.evanz.co.nz))**  
EVANZ was formed to encourage the development of venues' skills in management, marketing and innovation, through communication and exchange of information.

## 3. Clarifying concepts and defining terms

### 3.1 Clarifying some key concepts

The aim of the different pieces of legislation that govern this area is to protect the rights and interests of the individual. Unfortunately, in the arts and entertainment industry the individual consumer's legal rights have been misinterpreted at times to support the (potentially competing) interests of the different businesses, such as ticket companies, venues and arts organisations.

To encourage consensus and reduce confusion, the following sections clarify some central concepts, including the types of information that are governed by the privacy legislation and the legal relationships between the different parties involved with an arts event.

#### 3.1.1 Two main data types: "Personal" and "transaction" data

Data collected during the ticketing process can be divided into two broad types:

- **Personal data**  
The Privacy Act 1993 applies only to "personal information", which it defines as "information about an identifiable individual". When a customer buys a ticket, this can usually include their name, address, phone numbers and email address.
- **Transaction data**  
Transaction data describes an action, in this case the purchase of a ticket. When isolated from information that identifies the customer, it is not "personal information". It is in effect, anonymous data, and therefore the obligations in the Privacy Act don't apply to it. In a ticket purchase, the transaction data will include numerous related database entries – time and date of transaction, location of transaction, price/discounts, number of tickets, venue, part of house, and so on.

Personal information identifies an individual, and it therefore allows an arts organisation to record and develop an ongoing history of transactions that will inform its relationship with the individual customer. The unique identification of individuals is essential to inform Relationship Marketing delivered by a CRM system.

If arts organisations aren't able to identify their individual customers, they are forced to rely on mass – or "shotgun" – marketing, which doesn't support segmenting audiences to deliver appropriate personalisation and customisation of the service delivered.

### 3.1.2 *The key parties and their relationships*

#### **The event owner and the ticketing service provider**

For simplicity and clarity, throughout these Guidelines we have used the term “ticketing service provider” (which includes both ticketing companies and venue box offices), to describe those who are contracted by an event owner to facilitate distribution and transactions. An event owner may be the producer, hirer or presenter.

The owner of a show or event generally pays for the artists, venue hire, marketing, front-of-house and backstage staff, and similar related production costs. The risk and exposure remains wholly with the event owner, and the ticketing company adds a margin for the service of distribution. A ticketing service provider does not undertake any risk on an event and does not transfer ownership of the seats it sells for the event, unlike goods and services handled by a normal retailer.

When a customer buys a ticket, they buy a licence in which the terms and conditions of sale (that is, the contract) exist between the customer and the event owner (or the event presenter or venue). A ticketing company provides the transactional services to facilitate the purchase of a licence. The ticketing company does not own the tickets, but they own the system that provides the booking service. The contract a consumer has with the ticketing company is to use that system to purchase their ticket from the event owner (or the event presenter or venue).

Most of the performing arts organisations funded by Creative New Zealand are the event owners. In staging an event the common starting point is to hire a venue to present the event. Sometimes the event will be a co-production with the venue, which will take an interest in or share the risk of presenting the event. An alternative form of presentation is where the venue “buys” the show, so that it’s the venue that in effect “owns” these performances and the associated risk.

#### **Types of ticketing arrangements**

The demand for the arts event is managed through ticketing, and information is collected in one or more of the following three ways:

1. venue box office
2. ticketing company
3. self-ticketing.

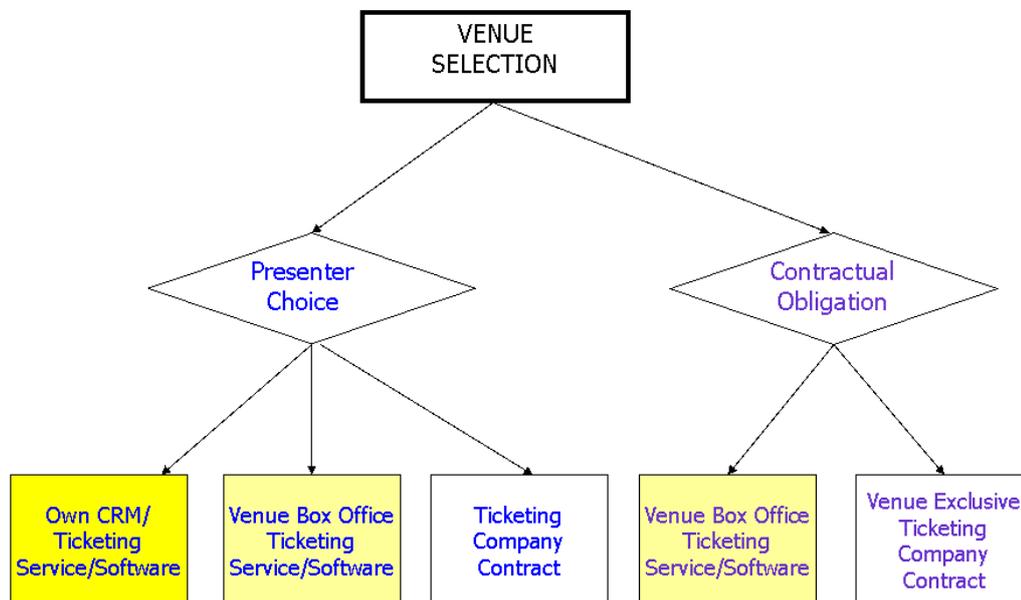
With many venues in New Zealand, the event owner as the hirer of the venue is not free to choose the means by which transactions are conducted with its customers, but is instead bound as a contractual condition of hiring the venue to use the venue box office or nominated ticketing company.

There are several different ways that ticketing services are provided in New Zealand, depending on the specific contractual arrangements:

1. The event owner hires a venue that has an exclusive ticketing contract with a ticketing company, and the event owner handles all ticketing through the venue box office, as a condition in the venue hire contract.
2. The event owner hires a venue that has an exclusive ticketing contract with a ticketing company, and the event owner handles ticketing directly with the ticketing company, as a condition in the venue hire contract.
3. The event owner hires a venue that has its own box office system and service.
4. The event owner hires a venue that has no ticketing arrangements and the event owner sells tickets itself.
5. The event owner hires a venue that has no ticketing arrangements and engages its choice of ticketing company directly.

The different variations are shown in the diagram below:

**Ticketing Service Provision**



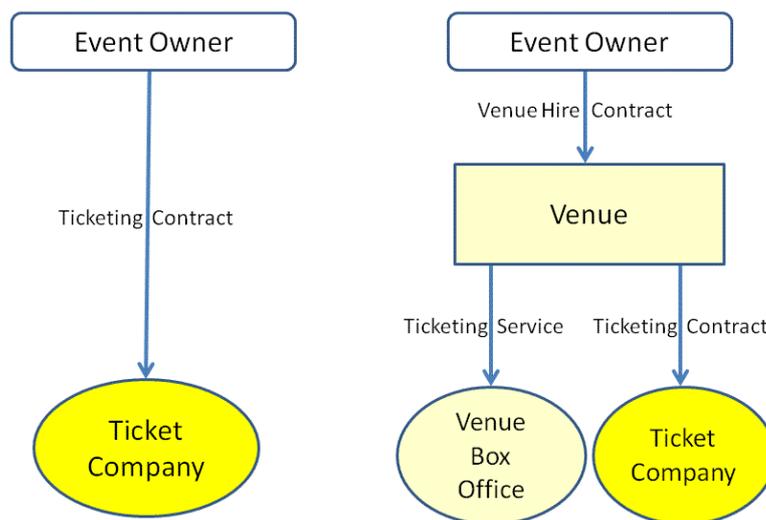
*3.1.3 The term “ticketing agent”: A source of confusion*

The common use of the term “ticketing agent” has caused confusion by implying, incorrectly, that legally there is an “agency relationship” between the event owner and the ticketing company.

In an agency relationship, the agent is authorised to act on behalf of the other party – the “principal” – and represent them in dealings with third parties. A ticketing company, however, is not an agent for the event owner in this legal sense. The ticketing company merely sells tickets as a contractor or service provider to the event owner, and has no authority to act on behalf of or legally bind the event owner. The ticketing company only does the specific job for which it was engaged, and it does not represent the event owner in the way that a genuine agent may.

In some cases an event owner contracts a ticketing service provider to provide a defined service or services. In other situations there is no contractual relationship between the event owner and the ticketing service provider, and instead the event owner’s contract is with the venue, with the venue providing an internal box office service or having a separate contract with a ticketing company. In all these cases, however, the relationship between the ticketing services provider on the one hand and the event owner or venue on the other is a contractual one, not an agency relationship.

The different relationships are shown in the diagram below:



**Selling tickets on behalf of an event owner does not involve an agency relationship. As a result, the rights to and responsibilities for customer data do not automatically flow from the ticketing service provider to the event owner.**

### 3.2 Definition of terms used in these Guidelines

The following terms used in the Guide are defined as follows:

A **commercial electronic message** is a communication sent using a telecommunications service to an electronic address for the purpose of promoting or marketing something. This includes emails, faxes, and SMS (short message service) text messages. It does not include direct mail, telemarketing or personal selling, for the purposes of the Unsolicited Electronic Messages Act 2007 (see page 15).

**Disclosure** is when information is passed on, whether deliberately or not, to a person who did not have it before.

The **event owner** is the producer, promoter, presenter or other entity that pays for an event and takes the risk of presenting it.

An **exclusive ticketing contract** is an agreement between a venue or event owner and a ticketing company that provides the ticketing company with the exclusive rights to sell all tickets for an event or events.

**Inside fee** is the “booking fee” charged by the ticketing service provider to the event owner for the service of selling the ticket. It is usually incorporated in the price the consumer is charged.

**Outside charges** are fees charged to the consumer in addition to the ticket price and which include charges for handling, “convenience” and dispatch or postage.

**Personal information** is information about an identifiable individual (this is how the term is defined in the Privacy Act 1993). It includes any information that may allow an individual to be identified.

**Spam** is unsolicited electronic communications of a commercial nature.

A **ticketing company** is contracted by the event owner to facilitate transactions and the distribution of tickets. (See further the discussion of the term “ticketing agent” on page 10.)

**Ticketing service provider** is a broader term that describes both a ticketing company and a venue box office.

**Venue box office** is the internal service provided by the venue to hirers to facilitate transactions and the distribution of tickets using locally installed ticketing software or a hosted ticketing service or a ticketing company’s service.

## 4. Understanding the legislation: The Privacy Act and the Unsolicited Electronic Messages Act

Two key pieces of legislation affect arts organisations' access to and use of customer data – the Privacy Act 1993 and the Unsolicited Electronic Messages Act 2007 (UEMA – which deals with the problem of “spam”).

### 4.1 Privacy Act 1993

#### 4.1.1 Introduction

At the core of the Privacy Act are 12 Information Privacy Principles (IPPs – see Attachment 1, on page 29). The IPPs state how personal information may be collected, stored, used and disclosed.<sup>3</sup>

The Privacy Act applies only to “personal” information (information about an identifiable individual), as discussed above in 3.1.1 at page 7. The central thread in the Privacy Act is that the individual should keep control over what happens to their personal information, who can have access to it, and who can communicate with them (whether electronically or otherwise).

The Privacy Act is administered by the Office of the Privacy Commissioner.

#### 4.1.2 Use of information

If an organisation holds personal information in connection with one purpose it cannot use it for other purposes (Information Privacy Principle 10). There are two relevant exceptions:

- if the other use is authorised by the individual, or
- if the other purpose is directly related to the purpose for which the information was originally collected.

#### What is a “directly related” use?

In the case of a ticket sale, “directly related” use can include facilitating and completing the transaction, confirming the purchase, providing information about the venue, cancelling the event, or following up about transaction or booking problems.

By contrast, promoting subsequent events by mail or telephone is **not** a directly related use. This is therefore prohibited by IPP 10, unless it’s authorised by the individual concerned.

<sup>3</sup> For the Privacy Act and privacy Codes of Practice, go to [privacy.org.nz/the-privacy-act-and-codes/](http://privacy.org.nz/the-privacy-act-and-codes/).

It's therefore essential that, when the customer's information is collected at the point of purchase, the stated purposes of collecting the information include that it will be provided to the event owner. This should be set out in the terms and conditions agreed to by the customer. This is discussed further under 4.1.3 below.

#### *4.1.3 Collecting information: What the customer must be told*

Whether customer data is collected by a representative (direct or indirect) of the event owner or by a contractor such as a ticketing service provider, the information collector must make clear to the customer:

- the purpose of collecting the information, and
- the intended recipients of the information (IPP 3).

To be able to disclose a customer's personal information to the event owner, either the ticketing service provider must have the customer's consent for this or the customer must be aware that this will happen.

The customer's consent can be obtained under the terms and conditions of the sale of the ticket, by including a disclosure term that states who will receive the personal information (see further 5.1 at page 22).

#### **Complying with IPP 3 – An Australian example**

Although it's an example from Australia under its federal and state legislation, the Sydney Opera House Customer Privacy Statement is a good illustration of how to comply with the requirement in IPP 3 that the collector must inform the customer of the purpose of collecting the information and the intended recipients.

The Sydney Opera House statement<sup>4</sup> clearly states the purpose of collection and the uses that are made of the personal information after it is collected. It continues:

“Our database is a customer relationship management system which is shared by Sydney Opera House and other Australian (usually New South Wales based) arts organisations (Organisations) for the purpose of ticketing and customer relationship management. The Organisations are able to view your name and contact details (address, email and phone numbers) when those details are given to Sydney Opera House and entered on the database. This is so that Sydney Opera House can process your current and future transactions as effectively as possible, and also helps ensure the speed and efficiency of any of your dealings with the organisation.”

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<sup>4</sup> Sydney Opera House Customer Privacy Statement, section 3 “How is your personal information used?”, at [www.sydneyoperahouse.com/privacystatement.aspx](http://www.sydneyoperahouse.com/privacystatement.aspx), accessed 8 September 2011.

The parties to whom information is disclosed are made clear:

“The current Organisations are the Australian Brandenburg Orchestra, the Australian Chamber Orchestra, Bell Shakespeare Company, Opera Australia and Seymour Theatre Centre. Other similar arts entities may become Organisations in future, and they will also be able to view your name and contact details in the database.”

The statement then describes how this personal information may be used by these parties:

“Unless you tell us otherwise you also consent to your name and contact details and other personal performance related information (such as performance and seating preferences, history of attendances and any other performance related information collected for marketing purposes) being shared with and used by the Organisations or by promoters and performing companies of those events you attend. This enables Sydney Opera House and the Organisations, promoters and performing companies to keep you informed of upcoming events that may be of interest.”

Additionally, if information is disclosed to others they are required to adhere to the Sydney Opera House Privacy Statement:

“If Sydney Opera House provides your personal performance related information to promoters of performing companies we require these organisations to agree to comply with our Privacy Statement and with strict conditions governing how personal information is to be handled.”

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### Methods for informing ticket buyers

It is essential that ticket buyers are made aware that their personal information is being collected and, as part of this, prominent notification of the Terms and Conditions and a Privacy Notice (or “Privacy Policy” or “Privacy Statement”) are good practice. Some ticketing service providers combine the Privacy Notice with the Terms and Conditions of sale. Simplicity and accessibility are good objectives when attempting to provide consumers with such information. A best practice that is increasingly recommended is a multilayered privacy notice. This is a framework for assuring that notices are both easy to understand, as well as complete.<sup>5</sup>

The means of informing the customer depends on how they buy their ticket:

1. **Online** – Reference to a link or URL for an online copy of the Terms and Conditions and Privacy Notice. Another good practice is for the email sent as confirmation of a purchase to also include a link to the accepted Terms and Conditions and Privacy Notice.
2. **Counter** – A notice posted at the box office with the Terms and Conditions and Privacy Notice, or stating that they are available on request. Similarly, as a post-purchase reminder the back of the ticket typically sets out the Terms and Conditions and may also include URLs to online copies of the Terms and Conditions and the Privacy Notice; the ticket envelope may also include this.

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<sup>5</sup> More information about multi-layered privacy notices and resources are available online at <http://privacy.org.nz/effective-website-privacy-notices/>

3. **Telephone** – The recorded message that all callers hear when they call the box office presents a good opportunity to inform the prospective ticket buyer of where the Terms and Conditions and/or Privacy Notice can be found online and offline. Again, the post-purchase reminders used at the counter may be used for telephone sales.

In addition, it is recommended that print material such as subscription brochures or season or festival brochures include copies of Terms and Conditions and/or a Privacy Notice, or URLs where customers can access these online.

## 4.2 Unsolicited Electronic Messages Act 2007

### 4.2.1 Introduction to the UEMA

The Unsolicited Electronic Messages Act (UEMA) addresses the problem of “spam”. One of its core provisions is that commercial electronic messages must not be sent unless the sender has the recipient’s consent for this (section 9).<sup>6</sup>

The Act covers email, SMS (short message service) text messages, instant messaging, MMS (multimedia message services) and other mobile-phone messaging, and (since October 2011) faxes. The UEMA does **not** cover voice calls.

The UEMA is enforced by the New Zealand Department of Internal Affairs.

There are three important issues to be considered in relation to electronic messages:

- **Disclosure of email addresses to arts organisations** – This is governed by the Privacy Act, not the UEMA.
- **Sending of electronic messages** – UEMA requires consent for the sending of commercial electronic messages.
- **Consent to receive electronic messages** – Under UEMA, consent must usually be explicit (“express”), but something less than express consent can be sufficient in certain defined situations.

These three areas are discussed below under 4.2.2 to 4.2.4.

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<sup>6</sup> See [www.dia.govt.nz/Services-Anti-Spam-Business-Info](http://www.dia.govt.nz/Services-Anti-Spam-Business-Info).

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#### *4.2.2 Disclosure of email addresses: Outside the scope of the UEMA*

The Unsolicited Electronic Messages Act does not deal with the issue of disclosing or providing access to email addresses: the Act is concerned only with the **sending** of emails and other electronic messages. The UEMA therefore provides no guidelines about passing on or disclosing customers' email addresses. In the case of a ticketing service provider providing the email addresses of ticket buyers to the owner of the event, this is covered by the Privacy Act 1993 (see 4.1.3 above on page 13).

An email address is personal information under the Privacy Act, as it may identify<sup>7</sup> a person, or an individual's identity may be derived from it. As personal information, an email address that has been collected by a ticketing service provider (and also other personal information related to the purchase) may not be disclosed to the event owner, unless the person's consent has been obtained (IPP 10). See section 4.1.2 above.

Apart from their use for communication, email addresses are increasingly valuable as a means (in conjunction with addresses and phone numbers) of identifying individuals for the purpose of maintaining an accurate individual purchasing history within a Customer Relationship Management (CRM) system.

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#### *4.2.3 Subsequent use of email addresses by the event owner*

If an email address is collected by a ticketing service provider as part of an individual event transaction and then disclosed to the event owner, the event owner may not use this email address for any subsequent communication unless the customer's express consent to this was obtained when the information was collected. Put simply, the UEMA requires an express opt-in.

If express consent is received as part of the transaction, the event owner may use this email address (or mobile number) to send emails (or SMS/MMS messages).

If a ticketing service provider is satisfied that it can legally disclose personal information to an event owner, then that event owner must treat that information in accordance with any permission given by the ticketing service provider and with the principles in the Privacy Act.

A responsible means of providing access to email addresses would include making this disclosure conditional on the customer's selection of the "yes" option being included in the data disclosed and remaining attached to the customer's record.

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<sup>7</sup> Not all addresses make it possible to identify an individual (for example, [mum123@gmail.com](mailto:mum123@gmail.com) or [skimask007@yahoo.com](mailto:skimask007@yahoo.com) as opposed to [tim.roberts@artsoz.com.au](mailto:tim.roberts@artsoz.com.au)). Hence many email addresses may – in isolation – be considered anonymous data that does not identify an individual, and so they may not be covered by the Privacy Act.

#### 4.2.4 What is “consent” under the UEMA?

Under the UEMA, commercial messages (which include subsequent marketing communications) may only be sent electronically if the recipient has consented to this.

There are three types of consent, which apply in different circumstances:

##### Express consent

Express consent is when there is a “direct indication from the person you wish to contact that it is okay to send the message(s).”<sup>8</sup> It is up to the email sender to prove that consent exists, so it’s advisable to keep a record of who gave consent and when.

When dealing with the customer through a ticketing service provider, one option for the event owner is to gain this permission at the point of purchase in the form of an opt-in statement. However, some ticketing service providers have claimed that software limitations make it difficult for them to include this as part of the purchase process. An alternative is to seek permission as part of subsequent transaction-related communication.<sup>9</sup>

##### “Inferred” consent in the case of longer-term relationships with the customer

A person’s consent will be inferred when:

“... based on the conduct of the parties, the business or other relationship, there is a reasonable expectation that messages will be sent. The person may not have directly instructed you to send them a commercial message, i.e. given express consent. The key here is an existing relationship strong enough to infer consent to subsequent communication. A single ticket purchase does not infer consent, although the purchase of a subscription of performances over a year may. However, when the subscription expires – so does the consent.”<sup>10</sup>

In the case of subscriptions (a year-long commitment to attend numerous events) or an annual or ongoing membership, consent may be inferred because of the nature of the relationship. “Factual information about a subscription, membership, account, loan or similar ongoing relationship” is not considered a commercial electronic message.<sup>11</sup> This is a situation where

<sup>8</sup> From [www.dia.govt.nz/Services-Anti-Spam-Business-Info](http://www.dia.govt.nz/Services-Anti-Spam-Business-Info).

<sup>9</sup> Ticketing companies often send emails to confirm a transaction, to send an e-ticket, or to provide factual information about a transaction. These messages are not commercial electronic messages under the Unsolicited Electronic Messages Act, and they offer an opportunity to include additional information that, if sent on its own, would be considered commercial. An example advised by the Department of Internal Affairs is the inclusion of a banner providing information about becoming a “friend” of an arts organisation and a link to access more information about membership. Refer to Section 6 (a), (b) (ii) and (b) (iv) Unsolicited Electronic Messages Act 2007  
<http://www.legislation.govt.nz/act/public/2007/0007/latest/DLM405198.html>

<sup>10</sup> Correspondence from Senior Policy Analyst, Gambling, Racing & Censorship Policy, Department of Internal Affairs, 5 September 2011.

<sup>11</sup> From [www.dia.govt.nz/Services-Anti-Spam-Business-Info](http://www.dia.govt.nz/Services-Anti-Spam-Business-Info).

express consent may not have been given (although it could be asked for at sign-up) but there is a reasonable expectation that messages will be sent.

#### **“Deemed” consent in the case of published work-related addresses**

This applies when someone conspicuously publishes their work-related electronic address – for example, on a website, brochure or business card, or in an article or advertisement. However, the email or other communication sent to the person must be relevant to their business or to their role, functions or duties in the business.

The address-holder won’t be “deemed” to have consented if they have stated that they don’t want to receive unsolicited electronic messages.

#### **Seek clarification if you’re unsure whether you have consent**

The Department of Internal Affairs recommends that organisations seek legal advice or talk to DIA’s Anti-Spam Compliance Unit if they have doubts about whether they have consent.

The Department has explained its approach to enforcing the UEMA as follows:

“The objectives of the Act include: to encourage the uptake and effective use of information technologies by businesses and the wider community. The Department tends to take an educative approach where people have acted in good faith and have used good marketing practice. However, where people have acted recklessly or have deliberately ignored the requirements of the Act, the Department has a range of enforcement actions it can take.”<sup>12</sup>

If you’re uncertain about what course of action to take, discuss the issue with DIA’s Anti-Spam Compliance Unit. It can be contacted at:

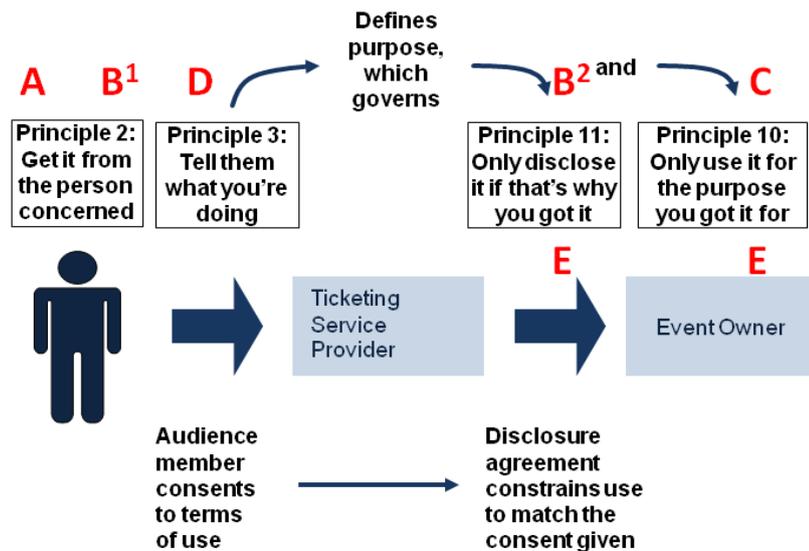
- [www.dia.govt.nz/Contact-us#Anti-Spam](http://www.dia.govt.nz/Contact-us#Anti-Spam)
- [info@antispam.govt.nz](mailto:info@antispam.govt.nz) or
- (04) 495 7200.

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<sup>12</sup> Correspondence referred to in previous footnote.

### 4.3 Privacy and UEMA principles in action

## Privacy Act



With most New Zealand arts events, the arts organisation (as the event owner) does not have the transaction relationship with the customer. As a result, the information is collected by the ticketing service provider (either the venue box office or a ticketing company) and is then disclosed to the event owner for its subsequent use.

The process of collection, disclosure and use is detailed in the diagram above; the application of the Information Privacy Principles (IPPs) in the Privacy Act to this situation is explained below:

- A** Under IPP 2, you must collect information from the individual concerned. The event owner does not have access to the person concerned – the ticketing service provider does.
- B** Under the Act, the ticketing service provider collects personal data from the person concerned, as part of the transaction, and then the data is disclosed to the event owner under Principle 11.

**C** However, the ticketing service provider is only allowed to disclose the information to the event owner for a purpose that is directly related to the purpose for which it was collected. When it collects the information, the ticketing service provider must also make the purpose of collecting it clear to the customer.

**D** The purpose of collection is explained in the collection statement, or “Privacy Notice”, given to the customer. IPP 3 spells out in detail what you must tell the person when you collect their personal information – this includes the fact that the information is being collected, the purpose for which it’s being collected, and who might receive the information.

In the process shown in the diagram, it is not necessary to directly gain the consent of the individual concerned. A lesser standard of using an opt-out mechanism is acceptable here, as well as an explicit opt-in. Therefore it is not necessary to get the customer to give explicit consent by means of a check box.

What is critical, however, is that the ticketing service provider does not require the customer to provide the personal information in order for them to receive the tickets. On the other hand, the customer’s name and contact details may be necessary for a number of other services, such as facilitating a credit card transaction, notifying cancellation of the event, or providing replacement tickets.

**If a customer is fully informed about what a ticketing service provider is going to do with their personal information and the customer agrees to provide it as part of the transaction, then they have consented.**

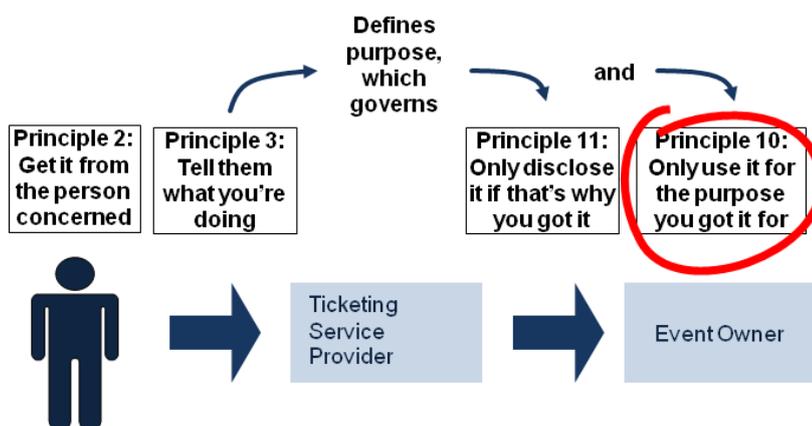
**E** At the other end of this logical chain, the ticketing service provider can only disclose the customer’s personal information to the event owner if this is for a directly related purpose (IPP 11). Further, the event owner can only use the information for the purpose it was collected for (IPP 10).

The ticketing service provider’s Privacy Policy manages the relationship between two steps:

1. the consent that the ticketing service provider has been granted, and
2. the disclosure of the information to the event owner and the event owner’s use of it.

This process ensures that the disclosure and later use of the information by the event owner is consistent with this customer’s consent.

## Unsolicited Electronic Messages Act



The Unsolicited Electronic Messages Act places additional restrictions on how you may use certain types of information.

There is much confusion about what the UEMA adds to the Privacy Act obligations in the area of collecting and disclosing email addresses and mobile numbers for SMS text messages. Put simply, the UEMA places additional and more specific restrictions on how you **use** information once you have it – specifically, you can't send electronic messages to people who haven't consented to receiving them.

The UEMA does not deal with collection (other than prohibiting address harvesting) or disclosure. It is concerned mainly with use, specifically for commercial electronic communication.

## 5. Solutions for disclosure of customer data to arts organisations

As explained in the previous sections, an individual's personal information must not be disclosed without the individual's permission or knowledge. If a ticketing service provider collects information from a customer and makes it available to others, they are disclosing information as defined under Information Privacy Principle 11 (IPP 11).

There are two mechanisms that can be put in place to address the issue of disclosure of personal information and to facilitate event owners gaining access to customer information:

- The first, a disclosure term as part of the sale transaction, addresses the purpose of the transaction by making the event owner one of the parties to the transaction (see 5.1 below).
- The second, a disclosure agreement between the ticketing service provider and the event owner, sets out the conditions under which the information will be disclosed to the event owner (see 5.2 below).

### 5.1 Disclosure term: Making disclosure to the event owner a term of the ticket sale

One way of ensuring that disclosing the ticket buyer's personal information to the event owner is a purpose of the original collection of the information is to make this a term of the sale transaction. Once the customer has accepted the transaction terms, the ticketing service provider may then pass on the customer's information to the event owner.

A disclosure term ensures that the customer is made aware of who will receive their personal information. It is important that arts organisations, venues and ticketing companies work together to ensure that such a term is included in the ticketing terms and conditions. Several ticketing service providers are already adopting this approach (examples are included in Attachment 2, on page 34).

A Privacy Notice is a means of making the customer aware of the purpose of collection and who will get the information: this is discussed in more detail in 6.1 below, at page 25.

### 5.2 Disclosure agreement between ticketing service provider and event owner

It is recommended that the Terms and Conditions of the ticket sale also state that before disclosing the customer's personal information to the event owner, the ticketing service provider will obtain the event owner's agreement to being bound by and complying with the same Privacy Act responsibilities as the ticketing service provider.

This can be done by using a disclosure agreement as discussed in sections 5.2.1 and 5.2.2 below:

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### 5.2.1 Ticketing company – Disclosure agreement

The following example relates to where ticketing is handled by a ticketing company, whether the venue contracts and liaises with the ticketing company on the event owner's behalf or the event owner contracts and liaises directly with the ticketing company. In these cases the ticketing company must tell the ticket buyer to whom their personal information will be disclosed.

As an example, the ticketing company iTICKET ([www.iticket.co.nz](http://www.iticket.co.nz)) has introduced a Promoter Privacy Agreement that states, in part:

“Customer data is able to be shared with the promoter/producer and/or venue of an event that a customer purchases tickets for, if the organisation agrees to this iTICKET Privacy Agreement.”

This is recommended as good practice, as it clearly sets out the conditions under which information is disclosed and to whom, with conditions that ensure iTICKET is comfortable that the disclosed information will be managed responsibly in accordance with the Privacy Act.

A recommended template for a Disclosure Agreement is included as Attachment 3: see page 36.

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### 5.2.2 Venue box office – Disclosure agreement

Rather than using a ticketing company, some venues have their own ticketing system installed, and provide a box office service for venue hirers. In this case the venue-operated box office must make ticket buyers aware of the potential disclosure of their personal information to the event owner.

On behalf of its venue membership, the Entertainment Venues Association of New Zealand (EVANZ) has developed the EVANZ Venue Hire Agreement: General Terms and Conditions<sup>13</sup> document for hirers, which includes standard terms and conditions relating to ticketing.

EVANZ developed the Venue Hire Agreement Guidelines in 2008 to encourage industry best practice and supports the *Customer Data Access Guidelines*. The *Customer Data Access Guidelines* complement the EVANZ Venue Hire Agreement and both guidelines enable EVANZ to achieve its objective of encouraging best practice across the industry.

The EVANZ Venue Hire Agreement is available to members only from the EVANZ website [www.evanz.co.nz](http://www.evanz.co.nz). Information about EVANZ membership is also available on the website or by contacting [admin@evanz.co.nz](mailto:admin@evanz.co.nz).

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<sup>13</sup> Document version date 15 May 2008.

Similar to Ticket companies discussed above in Section 5.2.1, an agreement between the venue box office and the event owner is recommended to ensure that an event owner is aware of its obligations upon the venue box office disclosing the personal information of purchasers of tickets for the event. A recommended template for a Disclosure Agreement is included as Attachment 3: see page 36.

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### *5.2.3 Dealing with non-compliance by event owners*

When event owners fail to comply with the Disclosure Agreement, ticketing service providers should refuse to provide any information.

Ticketing service providers may wish to add additional terms to discourage non-compliance: these might include liability for any loss or damages, indemnities in favour of the ticketing service provider for breach of the agreement, and termination rights. Ticketing service providers should consult their legal advisers on the wording of these clauses if required.

## 6. Managing Privacy Act obligations generally: Privacy Notices and Privacy Officers

### 6.1 Privacy Notices

Many arts organisations that use ticketing service providers to provide a public booking service mistakenly believe that the ticketing company’s Privacy Notice also covers their own organisation and its use of all personal information.

This is not the case. An arts organisation will also collect and store personal information from sources other than ticket sales handled by a third party. Common additional sources are subscribers, donors, members, friends, volunteers and staff personnel records – in other words, all the numerous types of constituents of arts organisations. An arts organisation should therefore have its own documented Privacy Notice, as it cannot rely on a third party’s Privacy Notice for all of its use of personal information.

In addition, when ticket sales are handled by a third party on behalf of an event owner and then disclosed to the event owner, a separate Privacy Notice is advisable.

Even if it seems obvious that your organisation is collecting a customer’s information, you are required (by IPP 3 of the Privacy Act) to tell them that you are collecting it, what you are going to do with it, and who you are going to pass it on to.

#### 6.1.1 Why have a Privacy Notice?

There is no formal requirement under the Privacy Act for an organisation to have a documented Privacy Notice (also called “Privacy Policy” or “Privacy Statement”). However, the Privacy Commissioner’s view<sup>14</sup> is that a Privacy Notice is essential to ensure that people are aware:

- you are collecting information about them
- why you are collecting the information
- what you are going to use their personal information for
- who you are going to give the information to (if anyone)
- whether the person must give you the information and what will happen if they don’t
- that the person can access the information you hold about them, and they can correct it if it’s wrong.

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<sup>14</sup> See “Privacy notices” at [privacy.org.nz/privacy-notices/](http://privacy.org.nz/privacy-notices/).

Specifically in relation to websites, the Privacy Commissioner also says that: “Giving notice to website visitors about how your agency collects and uses personal information is good practice.”<sup>15</sup>

**While managing personal information responsibly may be a legal requirement under the Privacy Act, developing and maintaining trust is also important, and a good way to facilitate this is through transparency. Informing people up front with a Privacy Notice reduces uncertainty and encourages trust, and this can only assist the development of an ongoing relationship.**

### 6.1.2 What should be included in a Privacy Notice?

As a good starting point it is useful to consider some of the recommendations (as a minimum) of the Privacy Statement Standard that is recommended for all New Zealand Government websites by the Department of Internal Affairs:

- “the circumstances in which personal information is collected, by whom it is held (e.g., your agency and/or third party agencies or web services) and any choices users may have as to whether such information is collected in the first place;
- the uses to which collected personal information may be put by the collecting agency and the circumstances in which it may be disclosed; ...
- users’ rights to request access to or correction of personal information held by the website’s owning agency; and
- contact details for such purposes.”<sup>16</sup>

#### Example: Live Performance Australia

Live Performance Australia ([www.liveperformance.com.au](http://www.liveperformance.com.au)) has developed some very useful guidelines for organisations developing a Privacy Notice or Policy that are equally relevant for New Zealand arts organisations.

<sup>15</sup> See “Effective website privacy notices” at [privacy.org.nz/effective-website-privacy-notice](http://privacy.org.nz/effective-website-privacy-notice).

<sup>16</sup> “Privacy statement standard”, Government Technology Services, Department of Internal Affairs, at [www.webstandards.govt.nz/privacy-statement/](http://www.webstandards.govt.nz/privacy-statement/).

### Live Performance Australia Privacy Policy Guidelines

#### Collection

- What information do we collect? Names and contact details? Other information?
- How do we collect this information? Is it automatic?
- Why do we collect this information? Why do we need this information?
- Do we use cookies or web bugs?<sup>17</sup>
- Does our internet server collect information of the individuals that browse our website? What do we use this information for?

#### Use

- How do we use this information?
- Where do we store this information?
- Who has access to this information?

#### Disclosure

- To whom do we disclose this information?
- How will the information be used once it is disclosed?
- Will the people to whom we disclose the information use it in accordance with the principles of the Act?
- How do we ensure this?

#### Accessing and Correcting Information

- What is the name of the Privacy Officer of your organisation and how [can] he or she be contacted?
- What does a person do if they want to access or correct their personal information?
- What does a person do if they wish to complain that their privacy has been interfered with?

#### Further assistance on drafting a Privacy Notice

You can get more guidance on drafting a Privacy Notice in New Zealand from the Office of the Privacy Commissioner's website.<sup>18</sup>

<sup>17</sup> See [en.wikipedia.org/wiki/Web\\_bug](http://en.wikipedia.org/wiki/Web_bug).

<sup>18</sup> See "Privacy notices" at [privacy.org.nz/privacy-notices/](http://privacy.org.nz/privacy-notices/).

## 6.2 Privacy Officers: Making compliance with the Privacy Act easier

Even though complying with the Privacy Act is a legal requirement, it is often difficult for a thinly resourced arts organisation to ensure that all staff members understand their responsibilities under the Act. Therefore, compliance is much more achievable if one person is made responsible for finding out what to do and for giving advice to other staff.

A Privacy Officer encourages compliance with the Information Privacy Principles, can deal with information requests, and can assist the Privacy Commissioner in the conduct of any investigations if required. It is important that anyone undertaking this role has the necessary knowledge of the Privacy Act and of related legislation such as the UEMA; they must also have the authority within the organisation to successfully carry out their responsibilities.

It's the organisation's responsibility to ensure that there are one or more staff members who can fulfil the responsibilities of a Privacy Officer. There is no penalty under the Privacy Act for not establishing such a role, but it is certainly recommended as good practice. The marketing manager or person responsible for marketing (if not, the General Manager) is ideally placed to fulfil the responsibilities of a Privacy Officer.

Once a Privacy Officer has been appointed and trained, the organisation should inform all staff who the Privacy Officer is, and also explain the procedure if any personal information requests are received (that is, when a person asks for access to any of their personal information that is held by the organisation).

The Office of the Privacy Commissioner is happy to assist organisations with this responsibility. It can be contacted at:

- [privacy.org.nz/contact-us](https://www.privacy.org.nz/contact-us)
- [enquiries@privacy.org.nz](mailto:enquiries@privacy.org.nz) or
- free phone 0800 803 909.

## Attachments

### Attachment 1 – The Privacy Principles<sup>19</sup>

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#### *Principle 1: Purpose of collection of personal information*

Personal information must not be collected unless:

- the collection is for a lawful purpose connected with a function or activity of the agency collecting the information; and
- it is necessary to collect the information for that purpose.

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#### *Principle 2: Source of personal information*

Personal information must be collected directly from the individual concerned.

The exceptions to this are when the agency collecting the information believes on reasonable grounds that:

- the information is publicly available; or
- the individual concerned authorises collection of the information from someone else; or
- the interests of the individual concerned are not prejudiced; or
- it is necessary for a public sector agency to collect the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- complying with this principle would prejudice the purposes of collection; or
- complying with this principle would not be reasonably practical in the particular case; or
- the information will not be used in a form that identifies the individual; or
- the Privacy Commissioner has authorised collection under section 54.

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<sup>19</sup> From “Information Privacy Principles” at [privacy.org.nz/information-privacy-principles](http://privacy.org.nz/information-privacy-principles).

### *Principle 3: Collection of information*

When an agency collects personal information directly from the individual concerned, it must take reasonable steps to ensure the individual is aware of:

- the fact that the information is being collected;
- the purpose;
- the intended recipients;
- the names and addresses of who is collecting the information and who will hold it;
- any specific law governing provision of the information and whether provision is voluntary or mandatory;
- the consequences if all or any part of the requested information is not provided; and
- the individual's rights of access to and correction of personal information.

These steps must be taken before the information is collected or, if this is not practical, as soon as possible after the information is collected.

An agency is not required to take these steps if they have already done so in relation to the same personal information, or information of the same kind, on a recent previous occasion.

It is also not necessary to comply with this principle if the agency collecting the information believes on reasonable grounds that:

- collection is already authorised by the individual concerned; or
- it is not prejudicing the interests of the individual concerned; or
- it is necessary for a public sector agency to collect the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- complying with this principle will prejudice the purposes of collection; or
- complying with this principle is not reasonably practical in the particular case; or
- the information will not be used in a form in which the individual concerned is identified.

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*Principle 4: Manner of collection of personal information*

Personal information must not be collected by:

- unlawful means; or
- means that are unfair or intrude unreasonably on the personal affairs of the individual concerned.

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*Principle 5: Storage and security of personal information*

An agency holding personal information must ensure that:

- there are reasonable safeguards against loss, misuse or disclosure; and
- if it is necessary to give information to another person, such as someone working on contract, everything reasonable is done to prevent unauthorised use or unauthorised disclosure of the information.

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*Principle 6: Access to personal information*

Where personal information is held in [such] a way that it can readily be retrieved, the individual concerned is entitled to:

- obtain confirmation of whether the information is held; and
- have access to information about them.

An agency may refuse to disclose personal information for a range of reasons, including that it would:

- pose risks to New Zealand's security or defence;
- breach confidences with another government;
- prevent detection of criminal offences or the right to a fair trial;
- endanger the safety of an individual;
- disclose a trade secret or unreasonably prejudice someone's commercial position;
- involve an unwarranted breach of another individual's privacy;
- breach confidence where the information has been gained solely for reasons to do with the individual's employment, or to decide whether to insure the individual;
- be contrary to the interests of an individual under the age of 16;

- breach legal professional privilege;
- reveal the confidential source of information provided to a Radio New Zealand or Television New Zealand journalist; or
- constitute contempt of court or the House of Representatives.

Requests can also be refused, for example, if the agency does not hold the information or if the request is frivolous or vexatious.

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#### *Principle 7: Correction of personal information*

Everyone is entitled to:

- request correction of their personal information;
- request that if it is not corrected, a statement is attached to the original information saying what correction was sought but not made.

If agencies have already passed on personal information that they then correct, they should inform the recipients about the correction.

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#### *Principle 8: Accuracy of personal information to be checked before use*

An agency must not use or disclose personal information without taking reasonable steps to check it is accurate, complete, relevant, up to date, and not misleading.

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#### *Principle 9: Personal information not to be kept for longer than necessary*

An agency holding personal information must not keep it for longer than needed for the purpose for which the agency collected it.

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#### *Principle 10: Limits on use of personal information*

Personal information obtained in connection with one purpose must not be used for another.

The exceptions include situations when the agency holding personal information believes on reasonable grounds that:

- the use is one of the purposes for which the information was collected; or
- the use is directly related to the purpose the information was obtained for; or
- the agency got the information from a publicly available publication; or
- the individual concerned has authorised the use; or

- the use is necessary for a public sector agency to collect the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- the use is necessary to prevent or lessen a serious and imminent threat to public health or safety, or the life or health of any individual; or
- the individual concerned is not identified; or
- the use is authorised by the Privacy Commissioner under section 54.

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#### *Principle 11: Limits on disclosure of personal information*

Personal information must not be disclosed unless the agency reasonably believes that:

- the disclosure is in connection with, or directly related to, one of the purposes for which it was obtained; or
- the agency got the information from a publicly available publication; or
- disclosure is to the individual concerned; or
- disclosure is authorised by the individual concerned; or
- it is necessary for a public sector agency to disclose the information to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings; or
- disclosure is necessary to prevent or lessen a serious and imminent threat to public health or safety, or the life or health of any individual; or
- disclosure is necessary to facilitate the sale of a business as a going concern; or
- the information is to be used in a form in which the individual concerned is not identified; or
- disclosure has been authorised by the Privacy Commissioner under section 54.

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#### *Principle 12: Unique identifiers*

Unique identifiers – such as IRD numbers, bank customer numbers, driver’s licence and passport numbers – must not be assigned to individuals unless this is necessary for the organisation concerned to carry out its functions efficiently. The identifiers must be truly unique to each individual (except in some tax related circumstances), and the identity of individuals must be clearly established. No one is required to disclose their unique identifier unless it is for, or related to, one of the purposes for which the identifier was assigned.

The Government is not allowed to give people one personal number to use in all their dealings with government agencies.

## Attachment 2 – Examples of Disclosure Terms

### *iTicket*

“Tickets are sold by **ITICKET.CO.NZ Limited (iTICKET)** as the agent for those who are promoting or otherwise providing the event (‘Promoter’) for which tickets are sold. The purchase of tickets is subject to the following conditions:

...

9. Your personal information is held by **iTICKET**, the Promoter and/or the Venue whose event you are booking tickets to. It will not be sold or passed on to any other party. ... Click [here](#) to view our full privacy policy.”<sup>20</sup>

The Terms and Conditions as above refer the consumer to the iTicket Privacy Policy,<sup>21</sup> and this also tells the consumer who their details will be shared with.

“WHO WE SHARE THIS INFORMATION WITH:

Your personal information is shared with the Promoter/Producer of the event you are booking tickets to or entering competitions for and/or the Event Venue. Our agreements with them protect the information that we collect from any use by them that we have not authorised. They have agreed to only contact you with information and offers if you have given express consent to do so. The information may be hosted with a service provider.”

### *THE EDGE*

“THE EDGE may provide patron contact and transactional information for marketing purposes on request to the organisations whose events patrons have attended (e.g in order that they can send patrons details about similar events). THE EDGE requires these organisations to agree to comply with the Privacy Act 1993 and with strict conditions governing how personal information is to be handled. THE EDGE will not otherwise trade, sell or rent personal information about patrons to or with third parties. When patrons book ticket(s), or provide THE EDGE with their personal information, patrons consent to their name and contact details being disclosed to the organisations whose events they have attended. If patrons do not wish their data to be shared with the promoter of the event they attended please contact THE EDGE Privacy Officer (details below).” – THE EDGE Privacy Policy<sup>22</sup>

<sup>20</sup> iTicket Terms & Conditions, at [www.iticket.co.nz/home/terms-and-conditions/](http://www.iticket.co.nz/home/terms-and-conditions/).

<sup>21</sup> iTicket Privacy Policy, at [www.iticket.co.nz/home/privacy-policy](http://www.iticket.co.nz/home/privacy-policy).

<sup>22</sup> THE EDGE Privacy Policy, Policy Principles 3.4.

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*TicketDirect*

“By purchasing tickets on the Site, you consent to us sharing your personal information with the venues, promoters, artists, teams, leagues and other third parties associated with the concerts and events for which you purchase tickets (‘Event Partners’). Due to our contractual obligations with Event Partners, we are required to provide this information to deliver the services you have requested and we cannot offer you the opportunity to opt-out of our sharing of your personal information with them.” – TicketDirect Privacy Statement<sup>23</sup>

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<sup>23</sup> TicketDirect Privacy Statement (see “Personal Information”) at [www.ticketdirect.co.nz/Home/PrivacyPolicy](http://www.ticketdirect.co.nz/Home/PrivacyPolicy) .

## Attachment 3 – Disclosure Agreement template

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### *Producer Privacy Agreement*

It is important that the privacy of customers is protected and respected. Customer privacy is the concern of all parties to the presentation of an event and administered by the Privacy Act 1993. The <Ticketing Service Provider> Privacy Notice (available on our website or on request) outlines the information we collect, what we do with it and a customer's rights to view, correct or change it.

We recognise that access to, and the analysis of, audience data is an essential requirement of your CRM and audience development activity. The <Ticketing Service Provider> Privacy Notice reflects this need by addressing disclosure and the parties to the transaction. Customer data is able to be shared with the Producer staging the event that a customer purchases tickets for, if your Organisation agrees to this Producer Privacy Agreement.

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### *Use of Personal Information*

This agreement allows for the provision to your organisation of access to the personal information and transaction details of ticket purchasers for your event. You are able to analyse this information and some or all of the following communication activities may be permissible:

1. Postal addresses and phone numbers may be used for direct marketing of future events and offers from your organisation.
2. If a customer has provided their email address or telephone number(s) and given their express consent, you are permitted under the Unsolicited Electronic Messages Act 2007 to send emails, SMS text messages or faxes to the customer promoting future events and offers from your organisation. Express consent is "a direct indication from the person you wish to contact that it is okay to send the message(s)" (from [www.dia.govt.nz/Services-Anti-Spam-Business-Info](http://www.dia.govt.nz/Services-Anti-Spam-Business-Info)).

How you responsibly manage customer data is covered under your organisation's Privacy Notice, but in addition you agree to the following:

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### *Conditions*

1. Customer data must be kept secure and confidential to your organisation.
2. Customer data will be used and disclosed only in accordance with the Privacy Act 1993.
3. If a customer requests to be taken off your contact list, you must remove them and honour their request not to be contacted in the future.

- 4. If a customer requests to view or update their personal details, you must action their request promptly.

I have read and understood the Producer Privacy Agreement and agree to the above conditions

Name \_\_\_\_\_

Date                    \_/\_/\_\_\_

Name \_\_\_\_\_

Date                    \_/\_/\_\_\_

Name \_\_\_\_\_

Date                    \_/\_/\_\_\_