

Information Regulator publishes draft regulations for Protection of Personal Information Act ('POPI Act')

On the 08 September 2017 the Information Regulator published draft regulations in terms of the Protection of Personal Information Act ('POPIA') that has very important and slightly alarming implications for direct marketing.

Currently, South African law allows marketers to approach customers via electronic communication to market their goods and services as long as customers are given the opportunity to unsubscribe.

When POPIA comes into effect (it is estimated that this will take place sometime early 2018 after which marketers will have a year to become compliant) that will change. When approaching a customer who has not received direct marketing before, the customer must first be approached to obtain their consent. The Information Regulator was given the power to determine what this consent would look like which it has now done. You can find it here: <https://novcon.co.za/2017/09/10/popii-regulations-highlights-far/>

The prescribed consent is impractical to say the least. It is two pages long, in legalese and requires a signature. Even though it is supposed to apply to electronic marketing, it seems that the Regulator failed to take digital marketing into account. The regulations are still in draft form and we have until 7 November 2017 to comment. The IAB will comment, but this is one of those times when the more voices are heard, the better.

What can you do in the mean time? You need to make sure that your customers know you will be using their details for direct marketing, that they have an opportunity to unsubscribe when they provide their information and that they are given an opportunity to unsubscribe every time.