

**Appendix A of Advocis 's Brief on the Proposed Electronic Commerce Protection Act**

***New Zealand's Unsolicited Electronic Messages Act 2007***

**Part 1, Section 4 Interpretation**

**...Consented to receiving –**

- (a) means –
  - (i) express consent, whether given by the relevant electronic address-holder or any other person who uses the relevant electronic address; or
  - (ii) consent that can reasonably be inferred from –
    - (A) the conduct and the business and other relationships of the persons concerned; and
    - (B) any other circumstances specified in the regulations; or
  - (iii) consent that is deemed to have been given when the following circumstances apply:
    - (A) an electronic address has been conspicuously published by a person in a business or official capacity; and
    - (B) the publication of the address is not accompanied by a statement to the effect that the relevant electronic address-holder does not want to receive unsolicited electronic messages at that electronic address; and
    - (C) the message sent to that address is relevant to the business, role, functions, or duties of the person in a business or official capacity; but
- (b) does not include the circumstances specified in the regulations from which consent cannot be inferred.

**Appendix B of Advocis 's Brief on the Proposed Electronic Commerce Protection Act**

***Australia's Spam Act 2003***

Schedule 2 – Consent

**...4 When consent may be inferred from publication of an electronic address**

- (1) For the purposes of this Act, the consent of the relevant electronic account-holder may not be inferred from the mere fact that the relevant electronic address has been published.

Exception – conspicuous publication

- (2) However, if:
- (a) a particular electronic address enables the public, or a section of the public, to send electronic messages to:
    - (i) a particular employee; or
    - (ii) a particular director or officer of an organization; or
    - (iii) a particular partner in a partnership; or
    - (iv) a particular holder of a statutory or other office; or
    - (v) a particular self-employed individual; or
    - (vi) an individual from time to time holding, occupying or performing the duties of, a particular office or position within the operations of an organization; or
    - (vii) an individual, or a group of individuals, from time to time performing a particular function, or fulfilling a particular role, within the operations of an organization; and
  - (b) the electronic address has been conspicuously published; and
  - (c) it would be reasonable to assume that the publication occurred with the agreement of:
    - (i) if subparagraph (a)(i), (ii), (iii), (iv) or (v) applies – the employee, director, officer, partner, office-holder or self-employed individual concerned; or
    - (ii) if subparagraph (a)(vi) or (vii) applies – the organization concerned; and
  - (d) the publication is not accompanied by:
    - (i) a statement to the effect that the relevant electronic account-holder does not want to receive unsolicited commercial electronic messages at that electronic address; or
    - (ii) a statement to similar effect;
- the relevant electronic account-holder is taken, for the purposes of this Act, to have consented to the sending of commercial electronic messages to that address, so long as the messages are relevant to:
- (e) if subparagraph (a)(i), (ii), (iii), (iv) or (v) applies – the work-related business, functions or duties of the employee, director, officer partner, office-holder or self-employed individual concerned; or
  - (f) if subparagraph (a)(vi) applies – the office or position concerned; or
  - (g) if subparagraph (a)(vii) applies – the function or role concerned.

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**Consent by Conspicuous publication of an electronic address**

See Appendix A, above.