

2013 – 2014

ANNUAL REPORT

The Personal Identification Information in Property Data Code of Conduct

Contents

Message from the Chair	3
The Code of Conduct	3
The Code Oversight Committee	5
Industry Representative's Report	7
Consumer Representative's Report	7
VAPIBA President's Report	8
Suppression Requests	9
Complaints and Disputes Received	10
Financial Statements	10
Appendix A - Definition of Terms	11
Appendix B - Complaints and Disputes	14
Appendix C - The Committee's Jurisdiction	16
Appendix D - Serious and Systemic Breaches of the Code	17
Appendix E - List of Participating Subscribers to the Code	19

MESSAGE FROM THE CHAIR

2013-2014 saw a substantial increase in the level of activity in matters concerning the Personal Identification Information in Property Data Code of Conduct.

Complaints of alleged breaches of the prohibition of the use of QVAS identified information for unsolicited direct marketing increased three-fold. This significantly increased the effort required by both Code Subscribers and the Code Oversight Committee in investigating and responding to complaints.

The year also saw an increase in data products becoming available in the Queensland market aimed at providing name and or address information to assist direct marketing, particularly by real estate agents. Some of these data products are marketed as being compliant with the Code of Conduct, in that they are not derived from QVAS name and address data. In some instances the use of these data products for direct marketing has caused recipients of marketing material to complain believing that QVAS data had been used in contravention of the Code of Conduct when this proved not to have been the case.

The inaugural independent triennial review of the Code of Conduct, the Galexia Review, was completed in 2012-2013 and the implementation of recommendations from the review was progressed during 2013-2014. Several amendments to the Code of Conduct, arising from the Review, are presently under consideration.

The ongoing support of the Code Subscribers who assist consumers with their complaints and also fund the work of the Code Oversight Committee, through their membership of the Value Added Property Information Brokers Association Incorporated (VAPIBA), is gratefully acknowledged.

As Chair of the Code Oversight Committee I wish to thank my fellow Committee members, Ms. Fiona FitzPatrick (Consumer Representative) and Mr Kris Matthews (Industry Representative) for their ever willing contributions of time and effort to the Committee's work. Thanks also go to Ms. Jodie Hughes, who is the Code's Administrator and provides secretariat support to the Committee, for her efficient work on the Committee's behalf.

Finally I wish to acknowledge the advice and assistance of officers of the Department of Natural Resources and Mines. As the source of the QVAS data and the authority which licenses the use of that data there is a collaborative working relationship between the Department and the Code Oversight Committee and Code Subscribers.

Neil Lawson

Chair, Code Oversight Committee

THE CODE OF CONDUCT

The Personal Identification Information In Property Data Code of Conduct (the Code), was introduced on 1 October 2009, (when it was known as the QVAS Code of Conduct,) to address concerns about the use of personal identification information being sourced from

Queensland Valuation and Sales (QVAS) databases maintained by the Department of Natural Resources and Mines (DNRM). 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
- relevant details, i.e. 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, for example Council rates notice, and in some circumstances may differ from the property's street address. Investor-owned as distinct from owner-occupier properties will frequently have service addresses different to the property's street address.

Access to the information held in the QVAS database is available 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, for example, real estate agents, financing sources (e.g. banks), solicitors and valuers.

Information Brokers

Subscribers to the Code include all the major property data information brokers operating within Australia. Code membership is mandatory for a broker seeking to access personal identification data from QVAS. Contact details for each of the subscribers to the Code are listed on the scheme website and in the Appendix to this report.

Before an information broker will be licensed by DNRM to have electronic access to the QVAS data, the broker must be approved by the Code Oversight Committee as a subscriber to the Code and must agree to comply with the Code.

Information brokers worked with the Queensland Government to develop the Code of Conduct. The industry has primary responsibility for the day-to-day operation of the Code and its associated dispute and sanction mechanisms. The Committee monitors complaints to ensure that they have been actioned in an appropriate and timely way. Serious or repeated breaches of the Code can be referred to the Committee for action.

Licence Agreements

The Queensland Government enters into licence agreements with individual information brokers enabling them to access QVAS data electronically on a wholesale basis. The QVAS data fields containing the names and service addresses of purchasers and vendors ("QVAS Identified Information") are only accessible to approved information brokers who subscribe to the Code.

A number of brokers' clients (Code Subscriber customers) also access QVAS data through products distributed by the information brokers. These clients include real estate agents, lawyers, valuers, surveyors, financial institutions and members of the public. The products include additional data added by the information brokers from other sources. These may include, for example, photographs of the property or a map showing the property's location.

Direct marketing

The Code is designed to prevent personal identification information in QVAS data being used for unsolicited direct marketing by the clients of licensed information brokers. Direct marketing can include telemarketing, bulk email messaging, postal mail-outs and list brokering.

The Code of Conduct only prohibits direct marketing where the name and or address for service is obtained from the QVAS database. 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 clients, have otherwise breached the Code.

Using personal identification information from QVAS is a breach of both the Code and of the data user's contracts with their licensed data provider who is a Code Subscriber. The terms and conditions of the contracts between a licensed information broker and their customer stipulate that QVAS name and address data cannot be used for unsolicited direct marketing.

The Code is not breached where personal details are obtained from sources other than the QVAS database. For example, some local governments make rate lists public. Other sources of data include, for example, names and addresses collected when members of the public enter competitions using their personal contact details, or real estate agents' records of persons visiting houses during open inspections.

THE CODE OVERSIGHT COMMITTEE

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

The role of the Committee includes the following

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

The Committee also has reporting obligations and to this end it gathers, monitors and reviews data which is included in its annual reports. It also commissions an independent review of Code operations every three years.

Amendments to the Code of Conduct can only be made by the Committee, in consultation with its stakeholders, appropriate individuals, industry and the Department of Natural Resources and Mines (DNRM, the Department).

Committee Members

Mr Neil Lawson - *Chair*

Neil Lawson is the independent chair of the Code Oversight Committee and is nominated by the Minister for Natural Resources and Mines.

Mr Lawson has worked as a management consultant and has held executive management positions in the private and public sectors. He is a past Commissioner for Consumer Affairs for Queensland. Mr Lawson is an ethics consultant and trainer in workplace conduct matters in the public sector.

Mr Kris Matthews - *Industry Representative*

Kris Matthews has over 17 years' experience in the real estate and information technology industries.

Mr Matthews commenced with Micro Developments in May 1997 which was later acquired by RP Data in November 1999. In his current role he is responsible for overseeing Industry Development, which includes strategic partnerships, acquisition and Asia Pacific Business Development.

Ms Fiona FitzPatrick - *Consumer Representative*

Fiona FitzPatrick has worked in legal and managerial roles in both the private sector and with the State and Federal governments. Her experience at the Office of Fair Trading has given her an understanding of consumer issues, including direct marketing, from the perspective of both consumers and business. Ms. FitzPatrick also has expertise in dispute and complaint management and in alternative dispute resolution.

Administration

Ms Jodie Hughes - *Systems Administrator*

Jodie Hughes is the Systems Administrator for the Code Oversight Committee and the Value Added Property Information Brokers Association. Her role includes administering the Personal Identification Information Property Data Code of Conduct website.

Ms Hughes has been employed by RP Data since 2008 with roles as an Executive Assistant and the Assistant Privacy Officer. Prior to her commencement with RP Data, Ms Hughes worked in the real estate industry for five years.

Ms Hughes contributes to case management by documenting and recording all incoming correspondence and alerting Code subscribers to complaints received. Ms Hughes also assists with quality assurance and the management of external relationships.

INDUSTRY REPRESENTATIVE'S REPORT

I would firstly like to thank my fellow committee members, Mr Neil Lawson and Ms Fiona FitzPatrick for their passion and professionalism throughout the past year.

I would further like to extend thanks to Code members and in turn VAPIBA for its continued support, not only financially to the running of the Code, but also for the members' commitment to actively engage with the Committee and in turn action Committee instructions and requests diligently.

As is highlighted throughout this report, the year ending June 2014 has seen a large increase in the workload of the Committee. This has been driven by the recommendations of the first independent review however even more so by a growing number of third party suppliers of marketing services in some instances using information similar to that held in the QVAS system.

I look forward to working with both Industry and the Committee throughout 2015 as we continue to grow the recognition and education of the Code.

Kris Matthews

Industry Representative, Code Oversight Committee

CONSUMER REPRESENTATIVE'S REPORT

It is disappointing that Queensland Valuations and Sales Data is still being improperly used for unsolicited direct marketing, primarily by real estate agents. No complaints have been received against Code Subscribers. It is difficult to accurately gauge the extent of the problem as the direct marketing only comes to the Committee's attention when consumers complain. This identification of breaches has also become more complex with the introduction of products which purport to offer "code compliant" direct mailing lists. What is clear is that the increases in complaints reflect growing consumer awareness about their rights under the Code.

This year the Code Oversight Committee has handled an increased number of external complaints. Most have been referred to the Committee because a Subscriber's internal complaint process has not meet quality or timeliness benchmarks. The Committee is addressing this by meeting with subscribers who are experiencing difficulty, monitoring their internal complaint management and working with them to enhance the timeliness and effectiveness of their internal complaints processes. The integrity and responsiveness of the internal complaint processes underpin the effectiveness of this industry self-regulation scheme, and the Committee will continue its efforts to build subscribers' complaint handling capacity. This will also ensure a "level playing field" for subscribers with robust internal complaint processes.

There has also been an increase in the number of agencies found to have committed a second breach of the Code, after receiving a formal warning. These Committee has listed

these agencies on the register of excluded parties which prevents them accessing QVAS personal identification information for a specified time.

Finally, the Committee has also ruled on the practice of using QVAS data to “filter” real estate agent mailing lists. It found that this practice did breach the Code and has recommended that Subscribers cover this ruling in their training. A copy of the ruling will be posted on the Code’s website at www.propertydatacodeofconduct.com.au

I welcome feedback from consumers or consumer groups about how I can most effectively represent their interests under the Code. I can be contacted by email at info@propertydatacodeofconduct.com.au or in writing at GPO Box 1815, Brisbane, Queensland 4001.

Fiona FitzPatrick

Consumer Representative

VAPIBA PRESIDENT’S REPORT

2014 saw heightened activity from members of the Value Added Property Information Broker Association (“VAPIBA”) as a result of a greater flow of complaints through the Code Oversight Committee. It has been pleasing to observe the good spirit and effort that has been put in by all members of the VAPIBA to ensure the integrity of the Property Data Code of Conduct (“the Code”) is maintained.

Investigations conducted by the VAPIBA and enforcement action taken against subscribers in breach of the Code, with the assistance and guidance of the Code Oversight Committee highlighted the value of the Code and validated the vision of the Department of Natural Resources and Mines (“the Department”) all those years before.

Special mention also needs to be made of the work that VAPIBA put in to the review of the Code of Conduct and the level of detail in response to the proposed amendments made by the Code Oversight Committee and the Department. We look forward to the outcome of those proposed changes and submissions and are grateful to the Committee and the Department for their consultative and responsive engagement in that process. I also take the opportunity to again acknowledge the harmonious working relationship between the Committee and the VAPIBA and we look forward to another year of working together to ensure the smooth administration of the Code.

Finally I would like to acknowledge the outstanding support the VAPIBA has received from Jodie Hughes over the last year. Jodie is the glue that binds the members and our success this year is in great part due to her leadership and effort. VAPIBA wish her all the best as she departs for maternity leave in October.

Luke Ingham-Myers

President VAPIBA (Value Added Property Information Brokers Association Incorporated)

INDUSTRY EDUCATION

Users of QVAS data receive advice and training in the use of data and the Code of Conduct when they become customers of the information brokers who are licensed to sell QVAS identified information.

Data users can also access information about the Code of Conduct from the Code's website.

Real estate agents are major users of QVAS data. They also frequently undertake unsolicited direct marketing campaigns as a method of acquiring new clients and developing their businesses. Consequently, it is important that they have a sound understanding of the prohibition of the use of QVAS identified information for direct marketing and other provisions of the Code of Conduct.

To this end the Real Estate Institute of Queensland (REIQ), the peak industry body for real estate agents, and the Committee have agreed to collaborate on information dissemination, education and training initiatives to further raise the profile and understanding of the Code of Conduct amongst real agents. The Committee is most grateful for the positive and constructive advice and assistance the REIQ has offered in support of the Committee's education objectives.

SUPPRESSION REQUESTS

Consumers can apply to suppress the name or names of the persons who are purchasers or vendors and their service address. A current Council rates notice must be produced as evidence of the applicant's standing to make the request. Corporate property owners are not eligible to apply for suppression.

Code subscribers must suppress any personal identification information within their systems within thirty days of receiving the request.

Table 1 - Total of Suppression Requests

	1 Oct 2009 to 30 Sept 2010	1 Oct 2010 to 30 June 2011	1 July 2011 to 30 June 2012	1 July 2012 to 30 June 2013	1 July 2013 to 30 June 2014
Lodged	93	14	46	43	43

COMPLAINTS AND DISPUTES RECEIVED

Complaints

There was a significant increase in the number of complaints during 2013-2014 with 65 complaints being received. Twelve were lodged directly with Code Subscribers while a further 53 were received by the Code Oversight Committee and referred to the relevant Code Subscriber for investigation and resolution. This contrasted with the previous year, 2012-13, when there had been a total of 22 complaints received.

Of the 65 complaints received, 19 involved Real Estate Agents who were found to be in breach of the Code of Conduct. In most cases, 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 provided for by the Code. Two agents were sanctioned as explained below.

Table 2 – Total of complaints received

Total of Complaints	From commencement to September 2010	Code 30	Financial year to June 2011	Financial year to June 2012	Financial year to June 2013	Financial year to June 2014
Complaints Received	11		47	47	22	65

Register of Excluded Parties

In two cases the agents, who had been found to be in breach of the Code of Conduct, were sanctioned. This involved them being listed on the Register of Excluded Parties for several months during which time they were denied access to QVAS identified information from any licensed information broker. Clause 16 of the Code sets out that where serious or systemic breaches have been found, the offending parties may be listed on the Register of Excluded Parties.

FINANCIAL STATEMENT

Table 3: Financial Statement 1 July 2013 - 30 June 2014

Code Subscriber Contributions	43,200.00
Code Oversight Committee Fees – Chair and Consumer Representative	14,088.85
Code Oversight Committee Fees – Industry Representative	Nil
Code Oversight Committee Fees - Administrator	Nil

Website Development Fees	375.00
Other Expenses – Postage, bank fees, lodgment fees	1,157.38

APPENDIX A - DEFINITION OF TERMS

Code Subscriber

An information broker that has agreed to be bound by the Code and has been approved as a member by the Code Oversight Committee.

Code subscriber customer/client

An individual or organisation that purchases or otherwise obtains QVAS Identified Information from a Code Subscriber.

Code Oversight Committee

The Committee administering the Code.

Complaint

A complaint by a consumer to a Code Subscriber concerning any act or omission by a Subscriber in relation to a subscriber's product, service or a matter relating to personal privacy information. An act or omission includes offering, withholding, providing and administering a subscriber's service. Consumers may complain about the use or management of a Subscriber's service by their customers. They may also complain about the failure or refusal of a Subscriber to provide a service where there is an obligation to do so.

Consumer

An individual whose personal information appears in any field in the QVAS database

DNRM

The Queensland Department of Natural Resources and Mines responsible for the QVAS database

Direct Marketing

One to one marketing, normally supported by a database, which uses one or more media to affect a measureable response and/or transaction from a person and includes, but is not limited to, telemarketing, bulk email, postal canvassing and list brokering

Dispute

A dispute can be defined as a complaint by a consumer or government agency to the subscriber concerning a product, service or privacy issue which has not been resolved through the internal complaint resolution process of the subscriber within 30 days after notification that it exists, or the consumer has notified the subscriber that its formal proposal to resolve the complaint is not acceptable, whichever is the earlier.

End User

A number of information brokers have been granted access to bulk data from QVAS. This is in the form of a licence agreement obtained through DNRM. A number of brokers' clients also access QVAS data through products distributed by the information brokers.

These products include additional data added by the information brokers from other sources. These may include photos of the property or a map of the property location.

"End users" can include real estate agents, valuation agents, surveyors, financial institutions and members of the public.

Independent Arbiter

An independent person with expertise in dispute resolution, appointed by the Code Oversight Committee

Information Broker

Information brokers acquire data and information and provide it to their customers. The data and information is often obtained from multiple sources and is assembled according to the customer's needs.

Customers and clients of information brokers include banks, other finance providers, real estate agents, lawyers and other professional advisers, and members of the public.

Jurisdiction

The structure and operation of the Committee, and the limitations of the powers and duties of the Committee.

Personal Information

Information or an opinion (including information or an opinion forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the opinion or information

PIIPD

Personal Identification Information in Property Data

QVAS Database

The Queensland Valuation and Sales (QVAS) System database administered by the Department of Natural Resources and Mines.

QVAS Identified Information

Database fields containing the names and service addresses of purchasers and vendors which are only accessible to approved information brokers who subscribe to the Code.

Subscriber

Before an information broker will be licensed by the department to have electronic access to the QVAS data, the broker must be approved by the Code Oversight Committee as a subscriber to the Code and commit to comply with the requirements set out under the Code.

Systems Administrator

The systems administrator manages the day to day operations of the scheme

Systemic Issue

An issue which has been raised in a dispute or several disputes which has the potential to affect consumers in addition to those who have complained to the scheme.

Terms of Reference

A written document explaining the powers, duties and obligations of the Committee as set out under the Code of Conduct

VAPIBA

The Value Added Property Information Broker Association Incorporated – the industry body responsible for the financial administration of the Code.

APPENDIX B - COMPLAINTS AND DISPUTES

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 (IDR) framework for dealing with consumer complaints.

Consumers must try to resolve their complaint with the subscriber before escalating it to the Committee. If consumers make contact with the Committee before using the subscriber's internal complaint process, the Committee will redirect them to the contact person at the relevant subscriber's office.

If the consumer remains dissatisfied with the subscriber's response or where their 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 a subscriber

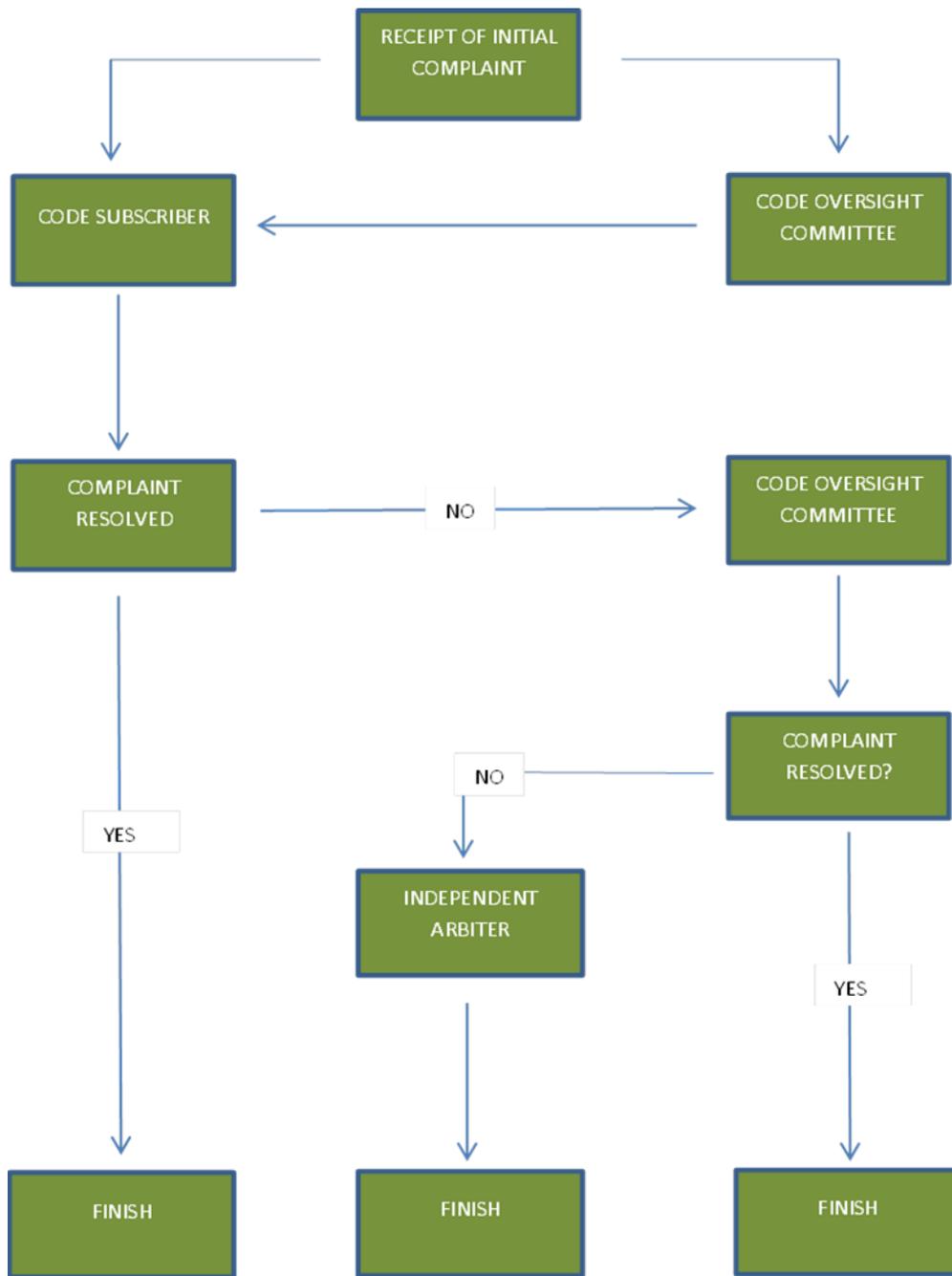
The website contains contact names and other details for the nominated complaints officer at each subscriber.

Lodging a dispute with the Committee

Written notification of disputes and supporting material may be lodged electronically by email with the Committee. If the dispute is not covered by the Code the consumer will be advised in writing. If the dispute falls within the ambit of the Code, the Committee will investigate and will make a decision.

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 involved with no fee being charged to the consumer. The decision of the independent arbiter is binding on the subscriber.

The process for resolving disputes under the code was arrived at after considering complaints processes across a broad range of industries. The process is outlined in the flow chart below.



APPENDIX C - THE COMMITTEE'S JURISDICTION

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 complaint is outside the Committee's powers or authority as provided for by the Code;
- where consumers do not authorise the subscriber to disclose confidential information which 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 made a decision on and there are no reasonable grounds for the matter to be re-opened.

The Committee will not usually consider a complaint which 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 settlement.

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

- 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 event occurred before the subscriber became a subscriber to the Code;
- 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.

The Committee may refuse to revisit a dispute which has already been determined, except where it has decided that the dispute may be reopened on the happening of some specific event.

APPENDIX D - SERIOUS AND SYSTEMIC BREACHES OF THE CODE

Identification of systemic issues

The identification, investigation and reporting of serious or systemic issues plays a critical role in raising industry standards. A systemic issue may be identified either by a number of disputes of the same type or by one dispute where the impact of the issue in dispute will extend beyond the immediate parties.

The following actions could constitute a serious or systemic breach of the Code:

- the Code subscriber's actions have caused substantial harm to consumers or the reputation of the industry;
- the Code subscriber has engaged in ongoing noncompliance;
- the Code subscriber has ignored the Committee's request to remedy a breach or failed to do so within a reasonable time;
- the Code subscriber has breached an undertaking given to the Committee.

Investigation and resolution

If the Committee determines that a serious or systemic breach has occurred, it advises the Code subscriber in writing and requests a detailed response.

Reporting

The Committee is required to report all systemic issues to the Department. When dealing with serious or systemic issues, the obligations of the Committee are

- to identify systemic issues that arise from its consideration of complaints;
- to refer these matters to the subscriber for response and action; and
- to impose remedies or sanctions.

Sanctions for Serious or Systemic Breaches

Where the Committee has made a decision that there has been a breach by a Code subscriber, the Committee may impose any of the following sanctions but are not limited to:

- issue a warning to a Code subscriber regarding the potential impact of any further breaches on future sanctions.
- publication of the name of the Code subscriber and the nature of the serious or systemic breach in the annual code compliance report or in other publications

- require the Code subscriber to undertake immediate remedial action including, but not limited to, changes to documentation or internal processes, and/or corrective advertising;
- require the Code subscriber to remove QVAS Identified Information from its data
- require the Code subscriber to remove specified Personal Information from its data
- require the Code subscriber to cease providing data and/or services to a Code subscriber's agent or other third party
- suspension from membership of the Code for a period of between one and six months, at the discretion of the Committee, and/or
- permanent suspension from membership of the Code and listing on the Register of Excluded Parties.

In cases where the Committee has determined to impose a sanction that involves suspension from membership of the Code, the Committee will advise the Department, so that it will then suspend provision of Personal Information under the subscriber's licence.

Recording of Systemic Issues

The Committee is responsible for the recording and maintenance of the Register of Excluded Parties.

APPENDIX E- LIST OF SUBSCRIBERS TO THE CODE

As at 30 June 2014 there were nine Code Subscribers being (in alphabetical order):

Australian Property Monitors Pty Ltd Level 1, Darling Island Road, Pyrmont NSW 2009

CITEC Confirm 317 Edward Street, Brisbane Qld 4000

GlobalX Information Pty Ltd GPO Box 2746, Brisbane Qld 4001

onthehouse.com.au Pty Ltd Level 2, 200 Adelaide Street, Brisbane Qld 4000

Property Data Solutions (PriceFinder) Level 7, 140 Ann Street, Brisbane Qld 4000

Residex Pty Limited Level 2, 200 Adelaide Street, Brisbane Qld 4000

RP Data Pty Ltd 6 Eagleview Place, Eagle Farm Qld 4009

Searchess Pty Ltd Lvl 9, 333 Adelaide Street, Brisbane, Qld 4000

Veda Advantage Information Services and Solutions Limited

Level 15, 100 Arthur Street, North Sydney NSW 2060

Code Oversight Committee

GPO Box 1815 Brisbane, Queensland 4001

Email info@propertydatacodeofconduct.com.au

