



New Zealand

EPC/RFID Consumer Protection



ISSUED BY GS1 NEW ZEALAND INC
(FORMERLY EAN NEW ZEALAND INC)



Committee Representation

This Code of Practice was prepared by a committee established by Standards New Zealand on behalf of GS1 NZ.

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EPC/RFID Consumer Protection Code of Practice

Radio frequency identification (RFID) is already displacing bar coding as a means of automatic data capture in some areas of logistics, and the trend can only increase into the future. Currently RFID, where used, is used only on pallets and cartons, but the day when it is used on retail items that will be purchased by consumers will inevitably come. Some limited use on retail items is already occurring overseas on a trial basis.

RFID technology offers many benefits to users, but it is also causing concern in some quarters, mainly because of fears that it might be misused to violate the privacy of persons who buy (or are given) items containing RFID tags, the components of RFID systems that can be read by the systems' scanning equipment.

GS1 New Zealand (formerly EAN New Zealand) engaged Standards New Zealand to manage a committee of interested organisations charged with producing a voluntary Code of Practice to be offered to retailers who will eventually stock products that may contain RFID tags. The Code relates to RFID technology used in providing customer service and aims to protect the privacy of consumers insofar as RFID technology might relate to it if and when they purchase items containing tags. It does not address the use of RFID technology in the supply chain, between manufacturer or suppliers and the retailer's "back door."

It is intended that the Code should protect retailers from misunderstandings or suspicions that might otherwise have an adverse effect on customer relations and sales, as well as reassuring and protecting the public.

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The EPC/RFID Consumer Protection Code of Practice has been developed to ensure the interests of consumers are protected in the operation of the EPCglobal Network and, as far as practicable, other radio frequency identification (RFID) applications.

Under the Code, stores shall ensure the privacy of consumers is respected by:

- Giving consumers clear notice at the point of sale of the presence of RFID tags on products;
- Providing details of the retention, use and protection of specific data gathered by the use of the RFID technology for purchased items;
- Allowing ready access to information to educate consumers about the technology and its capabilities within the scope of the retailers' operations;
- Providing options for consumers at the point of sale of RFID labelled products. Choices may involve the option of disabling or removing the tag.

This Code is to be read in conjunction with the Code of Practice for use with Point of Sale Scanning Systems.

The Code is administered by GS1 NZ, supported by the retail sector, and provides the mechanism for the industry to self-regulate in the context of general legislation.

Additionally, this Code should alleviate consumer concern and provide confidence that users of the Code have addressed the concerns they may have regarding relevant privacy aspects of RFID technology.

The Code addresses the complaint resolution process should disputes or non-conformance occur.

The Code focuses on the basic principles of notice, choice, education and privacy. The Code does not diminish any statutory rights a consumer may have under legislation such as the Consumer Guarantees Act 1993, the Fair Trading Act, 1986 or the Privacy Act 1993. The Code specifically deals with the obligations of retailers adopting this Code and their relationship with consumers in relation to RFID technology. It does not specifically address the retailer – manufacturer relationship.

Manufacturing processes (e.g. source tagging) may be referenced in the Code in the future, but it will not be mandated unless the manufacturing process has a direct bearing on consumer outcomes and is outside the control of retailers.

Consumer

An individual who “consumes” products from a retailer.

Customer

See “Consumer”.

Complaint

A formal notification by a consumer of an alleged breach of the Code. Complaints may be received by the retailer in question or by GS1 NZ. Complaints may be dealt with by the Retailer who receives the complaint or may be referred to the complaints committee.

Customer grievance

For the purpose of the Code, is any complaint that remains unresolved after the complaints procedure has been followed.

Deactivation

Rendering an RFID tag unable to respond to a request from an RFID reader. For the purpose of the Code a tag, once deactivated, cannot physically be reactivated.

EAS

Electronic Article Surveillance. EAS tags are currently widely used in the retail industry for security purposes. EAS tags do not usually carry EPC numbers and do not uniquely identify products.

EPC

Electronic Product Code. This is a set of standards defining a numbering protocol for the identification and serialisation of items, and technical specifications for radio readers and tags to be used in the automatic capture of the numbers.

NOTE – EPCglobal standards are administered by EPCglobal, represented in New Zealand by GS1 New Zealand, operating as EPCglobal New Zealand. For information visit www.gs1nz.org and www.epcglobalinc.org

EPCglobal Network

The EPCglobal Network is a set of RFID (and related) technologies enabling immediate, automatic identification and sharing of information on items in the supply chain.

Radio Frequency Identification (RFID)

The technology that enables automatic identification of items by means of radio waves transmitted between reading devices (readers) and tags situated in the items, or physically associated with them, (eg. by being incorporated in their packaging, or attached to them.)

Source retailer

The retailer (i.e. the legal entity) from which the original product was purchased.

Store

A retail business operating for the purposes of the sale of goods to the public by any means.

Tags

Radio transceiving devices that transmit identification data to readers. Tags may be passive (i.e. inactive until triggered by transmissions from an appropriate reader); active (i.e. transmitting constantly) or may have various combinations of passive/active capability. NOTE – Most tags in the retail environment will be passive.

3 CODE COVERAGE

3.1 WHOM DOES THE CODE COVER?

This covers retailers who have adopted this voluntary Code.

3.2 WHAT THE CODE COVERS

3.2.1

The Code applies to merchandise within the store labelled with RFID tags containing product identification information.

3.2.2

The Code does not cover items which do not contain RFID tags.

3.2.3

The Code only covers items containing an RFID tag where RFID technology is used for the purposes of customer service. In all other cases only clause 5.1 applies.

3.2.4

The Code does not cover EAS tags which are used exclusively for the purposes of security.

3.2.5

Whilst acknowledging that RFID technology may be used in applications other than in the retail environment (e.g. bank notes or automated toll collection), the Code focuses on the application of RFID tags containing product identification information within the retail sector and the retailers' responsibilities.

3.2.6

Although many issues are raised with the introduction of the Electronic Product Code (EPC), the EPCglobal network and RFID technology in general, the Code deals with mainly those issues surrounding privacy. These other issues may be addressed within the Code by referencing the appropriate source responsible to deal with these.

3.3 RETAILER RESPONSIBILITIES

3.3.1

Participating retailers undertake to apply the Code in spirit as well as in the prescribed text of the Code.

3.3.2

Retailers shall recognise their obligations under the Privacy Act 1993, the Fair Trading Act 1986 and the Consumer Guarantees Act 1993.

3.3.3

The retailer shall encourage the development of customer awareness and knowledge of the Code of Practice.

3.3.4

Staff are required to be familiar with the provisions of the Code and to ensure that customer inquiries or grievances about the Code are handled in a courteous and efficient manner. The retailer shall ensure the maintenance of appropriate staff training programs.

3.3.5

The retailer shall ensure education and information is available to customers to assist their understanding of the implications of the Code.

3.3.6

Complaints shall be dealt with within a reasonable time frame after the consumer becomes aware a breach is alleged to have occurred.

3.3.7

Retailers shall not intentionally record information from RFID tags obtained by consumers from other businesses without the consumers' consent.

3.3.8

Retailers choosing to adopt this Code should notify GS1 NZ.

4 NOTICE

4.1

Retailers shall provide at least 28 calendar days' notice to consumers of the pending activation of RFID (including EPC) scanning technology for the purposes of customer service. Notice may be provided by way of in-store signage or other written material provided to consumers upon entry into the store.

4.2

In-store signs shall be erected and shall state that the store adheres to the Code of Practice and that further information is available.

4.3

Store procedures shall be regularly monitored to ensure compliance with the Code.

5 DEACTIVATION POLICIES

5.1

Consumers shall be advised of the retailers' policy with respect to retaining, disabling or removing RFID tags from the products they purchase. Consumers shall be advised of this policy on entering the store.

5.2

Where a consumer had a reasonable expectation a tag would be deactivated at point of purchase and becomes aware that deactivation has failed, the retailer shall provide the consumer with a convenient and reasonable means to deactivate the tag.

6.1 CUSTOMER COMPLAINTS**6.1.1**

Every retailer shall designate a person or persons to deal with complaints alleging a breach of the Code and to facilitate the fair, simple, speedy, and efficient resolution of complaints.

6.1.2

Every retailer to which this subclause applies shall have a complaints handling procedure which provides that:

- (a) When a complaint of breach of this code is received by the retailer:
 - (i) The complaint should be acknowledged in writing within five working days of receipt, unless it has been resolved to the satisfaction of the complainant within that period
 - (ii) The complainant should be informed of any relevant internal and external complaints procedures
 - (iii) The complainant and the actions of the retailer regarding the complaint are recorded;
- (b) Within 10 working days of acknowledging the complaint, the retailer shall:
 - (i) Decide whether it:
 - (A) Accepts that the complaint is justified; or
 - (B) Does not accept that the complaint is justified; or
 - (ii) Decide if more time is needed to investigate the complaint, and if so:
 - (C) Determine how much additional time is needed; and

(D) If that additional time needs to be more than 20 working days, the retailer should inform the complainant of that determination and of the reasons for it; and

- (c) As soon as practicable after a retailer decides whether or not it accepts that a complaint is justified, the retailer shall inform the individual of:
 - (i) The reasons for the decision
 - (ii) Any actions the agency proposes to take
 - (iii) Any appeal procedure the agency has in place, and
 - (iv) The right to complain to GS1 NZ who shall be in charge of the administration and convening of the committee or a sub committee (this normally consists of GS1 NZ, a consumer representative and a retailer representative).

6.2 COMPLAINTS COMMITTEE**6.2.1**

A complaints committee of at least three persons shall be established by GS1 NZ to consider complaints by customers against retailers.

6.2.2

A complaints committee normally shall be independently chaired and shall include a retail representative and a consumer representative. The committee may seek opinions from independent experts with experience and knowledge of the RFID environment. If the complaints committee took the view that the matter may involve

a serious breach of an Act of Parliament or applicable law, they may refer the matter to the appropriate legal or regulatory authority. Nothing in this Code limits the right of a consumer to make a claim against a retailer through a court or to seek other means of redress.

6.2.3

The committee shall attempt to complete its deliberation within 28 days and the chairman shall communicate, in writing, its decision to the parties.

6.2.4

When a consumer or retail representative vacancy occurs, within the complaints committee, GS1 NZ shall invite an appropriate representative organisation (or organisations) to nominate suitable candidates. GS1 NZ shall then select one of these, providing they meet the conditions outlined in paragraph 6.2.5.

6.2.5

Such nomination(s) shall not be restricted to individuals from the nominating organisations and may include any suitable person, having regard to:

- (a) The ability of the person to:
 - (i) Be well informed and objective
 - (ii) Negotiate and make appropriate compromises, and
 - (iii) Exercise sound and fair judgment;

(b) The person having:

- (i) A close interest in and commitment to looking at the issues of concern
- (ii) An active interest in and understanding of consumer dispute resolution, and
- (iii) The confidence of a consumer or community or public interest group or from their industry association.

6.2.6

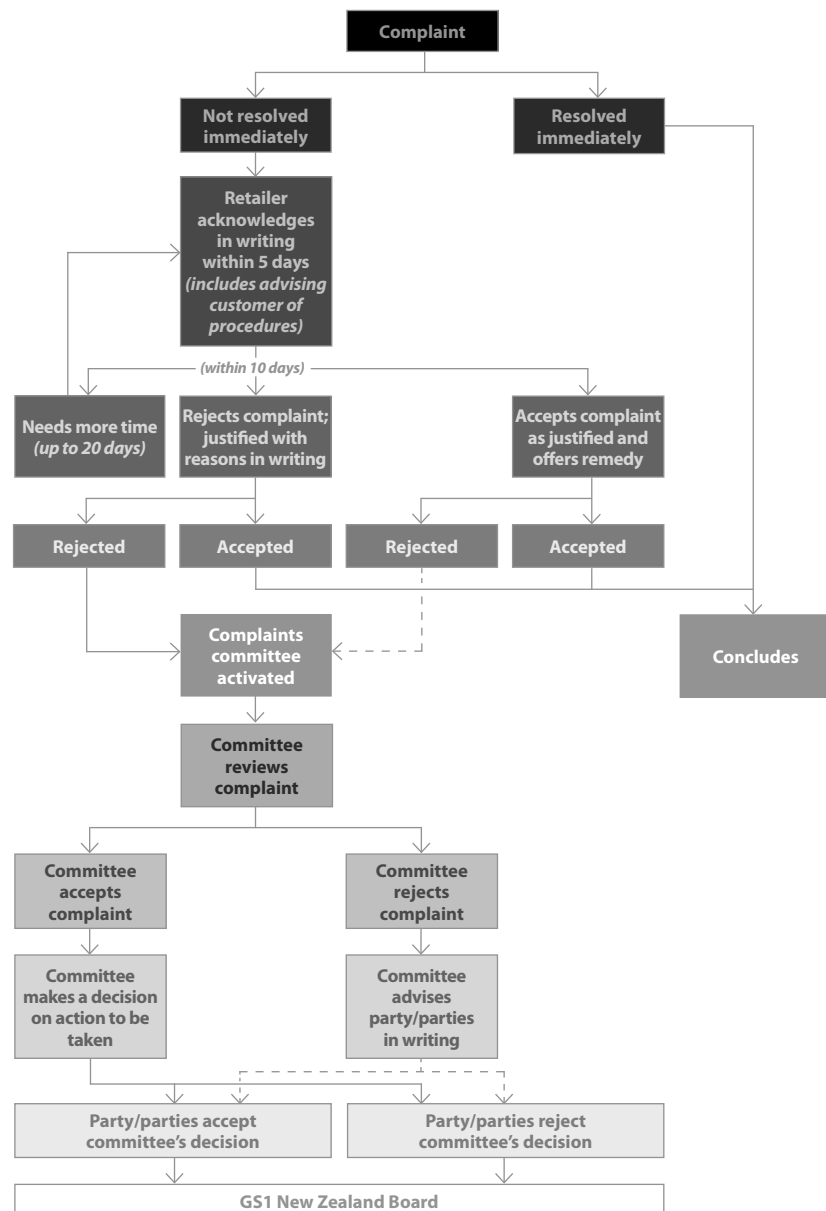
Should the consumer organisation(s) fail to nominate a suitable candidate within a reasonable time of GS1 NZ's request, GS1 NZ shall be free to make its own decision about community representation.

6.3 REMEDIAL ACTION**6.3.1**

Should a complaint or grievance against a retailer be upheld, the chairman of the complaints committee shall notify the retailer, in writing, of the decision and the recommended remedial action.

If a retailer has failed to comply with the remedial action (either after the expiration of an appeal period, or if an appeal has been rejected), the retailer shall be warned in writing. This written warning shall come from the CEO of GS1 NZ. The warning should detail how the retailer is in breach of the Code, and the retailer will be requested to take the remedial action set out in the warning. The retailer will have 28 days from the date of the written warning to comply – unless the retailer can show just cause as to why this time frame is not achievable or should be amended.

FIGURE 6.1 – THE COMPLAINTS PROCESS



6.3.2

Upon the issuing of such a warning – and the failure of the retailer to agree to take the action set out, (or any other immediate and appropriate action suggested), within the specified period – notification of the warning shall be published in the next available edition of GS1 New Zealand’s newsletter to members and on the GS1 NZ website.

6.3.3

Should a retailer refuse to take remedial action within seven days of the publishing of the warning in the association’s newsletter and/or website, or to comply voluntarily with the Code when so requested by the CEO of GS1 NZ, the complaints committee shall recommend to the GS1 NZ Board that the retailer be expelled from the Code and that the expulsion be reported in the GS1 NZ newsletter in due course.

6.4 REPORTING PROCEDURES

6.4.1

GS1 NZ shall maintain a record of all formal complaints under the Code and the manner of their resolution for a period of not less than five years for each complaint.

6.4.2

The chairman of GS1 New Zealand shall report annually on the operation of the Code, including summaries of formal complaints received and subsequent action by the complaints committee to resolve the disputes or rule on them.

6.4.3

GS1 NZ shall make the report available to government agencies and organisations having an interest in the Code and its operation.

7 ADMINISTRATION OF THE CODE

7.1 ADMINISTRATION COMMITTEE

7.1.1

The Code shall be administered by the Code of Practice development committee. The committee shall meet at least annually. Responsibility for convening and facilitating meetings shall rest with GS1 NZ.

7.1.2

The Committee shall make recommendations to the Board of GS1 NZ on any changes to the Code or the issuing of guidelines.

7.1.3

The promotion of the Code will primarily be the responsibility of GS1.

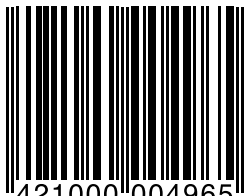


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