**MINUTES**

**of the**

**DIRECT MARKETING COMMISSION**

**on**

**Tuesday 4th December, 2018**

**at**

**The DMA offices**

**Present:**

George Kidd, Chief Commissioner (GK)

## Dr Simon Davey, Independent Commissioner (SD)

Fedelma Good, Industry Commissioner (FG)

Rosaleen Hubbard, Independent Commissioner (RH)

Charles Ping, Industry Commissioner (CP)

**In Attendance:**

Suzi Higman, Secretary, Direct Marketing Commission (SH)

Mike Lordan, Director, External Affairs, DMA (ML)

Rachel Aldighieri, MD, DMA (RA) – in part

1. **Apologies for absence**

There were no apologies for absence.

1. **Minutes of last meeting + matters arising**

The minutes of the last meeting were approved.

**Membership issue:**

At the last meeting there had been discussions around potential issues with member companies with separate entities within some form of group membership. This had raised questions over how the DMC would manage complaints with an entity in membership in relation to issues over a sister or subsidiary business that was not in membership. As a membership issue this was something for the DMA to address. It was agreed however, that the DMC needed to be clear on these membership terms in order to progress complaints effectively. ML would liaise with John Mitchison at the DMA on this point and report back to the DMC. The DMA would also be asked to provide an assessment following the recent change in law on phoenix companies where a new company was created under the same management as the company which was no longer in business.

ACTION: ML would liaise with John Mitchison and report back to the DMC.

**Succession planning for Secretariat:**

ML reported that two staff from the Telephone Preference Service team would be trained on the new DMC database. It was agreed that as long as staff were available to undertake the admin function of the DMC this would be sufficient to provide temporary cover in the Secretariat’s absence.

1. **Complaints**

SH had circulated complaint summaries for September, October and November. The following complaints were noted in particular:

**Complaint 1**

This complaint followed the order of a doll by mail order. A number of customer service issues had been identified including a lengthy waiting time on the phone, an enquiry line number which was not routed correctly, an overdue invoice sent out in error and a call back that did not happen. The company had taken remedial action and one of the agents had now left. The case had been informally resolved with a formal reminder of obligation to provide a prompt, efficient customer service to consumers and to have the administrative processes in place to achieve this. The note sent to the member had made it clear that we may proceed to a formal position should ongoing or similar complaints be received. The Commissioners thought that this was of particular importance when dealing with a customer base that might have particular vulnerabilities.

**Complaint 2**

SH reported on a complaint about a door drop delivery which the complainants believed had not been carried out adequately by the member’s sub-contractor. The complainants had undertaken some of their own back-checking and claimed that a number of postcodes had not received the leaflet. This had been disputed by the member and the exchange of correspondence between member and complainant had extended from the date of the door drop in May 2017 until February 2018. SH reported that the member had contacted the DMC and said that as the date of delivery was over a year and a half ago, there would be limited recall and questioned whether or not there was merit in looking into the matter. It was agreed that the Secretariat would proceed with its usual process and ask questions of the member in order to have a full picture as possible of events, particularly on its process for providing back-checks, but acknowledged that this may be a case where there is insufficient evidence to show one way or another whether the delivery was carried out adequately.

**Complaint 3**

This complaint related to receipt of an unwanted mailing piece from a retailer. The complainant had been informed that the member concerned had collected his details from two companies (both non-members) and passed on his details to the retailer concerned. The Secretariat had not identified a serious breach of the Code and the matter had been informally resolved. However, whilst it was agreed that there was no need to further investigate in this particular case, CP pointed out the potential pitfalls for members who are in the business of collecting and compiling prospect pooled databases from businesses who are not in membership. It was noted that the ICO were currently examining a number of companies and their processes for aggregating data.

**Complaint 4**

SH reported on five recent complaints against a member in the business to business marketing space. The complaints had been varied, but shared some common themes in terms of claims of alleged unprofessional conduct, a lack of written agreements/terms, miss-selling data, and data which did not fit the criteria or was unusable. It was agreed that on the grounds that the volume and nature of complaints led us to question whether or not there was an intention to comply with the spirit and letter of the Code the matter would be taken to a formal investigation and adjudication.

1. **DMC Extended Remit Proposal**

GK updated Commissioners on discussions around the proposition for the DMC to widen its remit to take on an advisory role for data cases outside membership. SH had circulated the latest wording for the CAP Code, alongside the ASA’s draft MOU and had produced a flowchart which identified how the extended process could work in practice in both member and non-member scenarios from a DMC perspective. Rachel Aldighieri also attended this section of the meeting.

There were a number of points around the proposed remit identified for further discussion at a meeting with GK, the DMA’s MD, Rachel Aldighieri and the ASA on Thursday 6th December.

1. **Responsible Marketing Committee**

SH had circulated minutes of the latest Responsible Marketing Committee meetings from July to November 2018.

**Committee Remit**:

RH updated Commissioners on the last meeting in November which had looked at the remit of the Group. Following GK’s input, it had been agreed that more definition was required in terms of the Committee’s role and the additional wording would be added to the Committee’s Mission Statement.

**DMA Code:**

The Committee were to discuss DMA Code amendments at their next meeting on 13th December. It was agreed that Commissioners would make any comments by this time. GK had also made suggestions which had been put to the Committee.

ACTION: Commissioners to put forward comments on DMA Code amendments by 13th December.

1. **FEDMA – compliance and enforcement ecosystem**

GK had given a presentation to FEDMA on 2nd October which described the DMC model and process. This was an ongoing matter and there was nothing further to report at the current time.

1. **General Matters**

**DMA Code:**

ML reported on the ICO consultation for re-writing their Direct Marketing Code. Should the DMC wish to make comment then the DMA would require this by 21st December latest. It was agreed that the DMC would offer its assistance to the ICO on the subject of natural justice should this be helpful.

ACTION – GK to write to ICO

**DMA Re-brand:**

ML updated Commissioners on the DMA’s re-brand and shared visuals of the new logo. SH said that the DMC website and articles would need to be updated. ML confirmed that this had been added to a work-list of changes required.

**Third Party Data Guide:**

SH had circulated a copy of the new Guide produced by the DMA’s Data Council.

**ICO Investigation into Data Analytics:**

SH had circulated a copy of the ICO report to date on this investigation.

**DMC Tenures:**

ML reported that GK’s tenure would be on the agenda for the DMA Board meeting next week. GK reiterated his position – he did not want to undertake another full term but was happy to stay on whilst the DMC’s potential new remit was under discussion and implementation. ML was also liaising with DMA legal on the matter of RH’s tenure and possible extension.

ACTION: ML to feedback on tenures to Commissioners

**DMC Annual Report:**

SH reported that we were awaiting articles from CP and SD.

ACTION: CP and SD to send out their thought pieces to SH

**DMC Database:**

SD updated the Board on the new database, this would be up and running by March 2019 at the latest. SD also reported that the DMA had offered payment for his support with the implementation of the database but that this did not contravene any Commissioner responsibilities.

1. **Any other Business**

There was no other business.

1. **Future Meetings 2019:**

**Thursday 7th February**

**Thursday 16th May**

**Thursday 12th September**

**Wednesday 11th December**

**Addendum to December minutes:**

At the DMC meeting on 7th February, the following was agreed as an additional note to be included with the DMC minutes of 4th December 2018.

**DMC Tenures**

In relation to RH’s tenure extension (which RH had agreed with at the September meeting) the Board were all in agreement with the proposal to progress with the relevant steps to extend RH’s tenure.