**MINUTES**

**of the**

**DIRECT MARKETING COMMISSION**

**on**

**Thursday 16th May, 2019**

**at**

**The DMA offices**

**Present:**

George Kidd, Chief Commissioner (GK)

## Dr Simon Davey, Independent Commissioner (SD)

Fedelma Good, Industry Commissioner (FG)

Charles Ping, Industry Commissioner (CP)

Rosaleen Hubbard, Independent Commissioner (RH)

**In Attendance:**

Suzi Higman, Secretary, DMC (SH)

Arthur Cummings, Compliance Consultant, DMA (AC) – attending in part

1. **Apologies for absence**

There were no apologies.

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

The minutes of the last meeting were approved.

**Matters arising:**

At the last meeting, it had been agreed that the DMC would seek a stronger presence on the re-branded DMA website, with a ‘how to complain’ link in a prominent position on the home page. SD asked that this was reiterated to the DMA now they were about to launch their re-brand.

FG asked for clarification on the process for receiving Code updates. All agreed on the importance of having dated version updates of the Code, so that there is no ongoing confusion as to the latest version online or in print. SH would liaise with the DMA on this point. GK had also raised this issue earlier in an email to the DMA.

Commissioners discussed the relationship between DMA, the Responsible Marketing Committee (RMC) and DMC. The latest Terms of Reference for the RMC would be circulated to Commissioners.

**Action Points:**

* **SH to remind DMA re DMC promotion on DMA website.**
* **SH to follow up re Code updates.**
* **SH to circulate the latest Terms of Reference for the RMC.**

1. **DMC Legal:**

* **Revised Articles (tenures/extended remit) – Written Resolution for signing**

SH had circulated a Written Resolution from James Milligan, Company Secretary which confirmed approval for the recent amendments to the Articles – these related to Commissioner tenures and the DMC’s extended remit. This was now signed by GK. JM would also arrange for a DMA signature.

The DMC’s change of name – Data & Marketing Commission - would also be reflected in the Articles. JM would circulate any necessary amendments, and would also ensure references to ‘direct marketing’ would be amended to ‘data and marketing’ - a further Written Resolution would be provided in time for the DMC’s re-brand.

* **Terms of Reference – update**

SH reported that the DMC’s Terms of Reference had now been signed by the DMA (Mike Lordan). The Terms – which were a copy of the back section relating to the DMC in the DMA Code – also reflected the revised Grounds for Appeal with an added note to clarify that these would form part of the new Terms once the updated Code was in place. It was agreed however that any cases from the day of this meeting could reflect the new Grounds. SH would ensure that any communication to a member following adjudication would advise that there had been an update not yet reflected in the new Code (if this still applied), and information on Appeals to the member would be sent as a PDF document dated the day of this meeting. SH would update the Terms of Reference accordingly with the new Grounds in place and ensure these were signed again by Mike Lordan.

**Action Points:**

* **JM to circulate further amendments to DMC Articles.**
* **SH would reflect the new Grounds of Appeal in any cases going forward.**
* **SH to produce revised Terms of Reference to reflect new Appeal grounds.**

1. **ASA/CAP Extended Remit:**

* **ASA/CAP attendance**

Nick Hudson, Operations Manager, CAP attended the meeting to explain the process behind the DMC’s extended remit to act as an advisory panel for complaints relating to legitimate interests and data related matters.

In summary, the DMC would receive the related paperwork from ASA case officers – the DMC could raise questions at this point or at a later stage during the advice meeting. [The arrangement did not allow for Commissioners to engage with the complainant or business involved]. The case would then go back to the ASA Council for adjudication.

Nick Hudson agreed to produce a simple flow chart to clarify the process.

GK pointed out that there may be cases where outside expertise would be required eg DMA legal or others – this had been raised with the ASA and had not been considered to be a barrier.

Nick Hudson confirmed that the ASA have an independent reviewer who acts entirely independently in the event of an appeal to the ASA. There may be cases where the independent reviewer would wish to liaise with the DMC. GK would inform the DMA that the DMC stands ready to advise the ASA in the event of an Appeal.

Commissioners discussed the merits or otherwise of passing non-member complaints with particular relevance to Legitimate Interest and data related matters over to the ASA, bearing in mind those complaints could then revert to DMC. Currently, data related complaints against non-members were largely referred to the ICO and/or the DMC Secretariat would write to the non-member to request remedial action though it would not investigate. It was agreed that SH would produce a retrospective table giving a brief summary of non-member complaints for the last month and circulate to Commissioners with a view to identifying those that would benefit from an ASA investigation, probably with support from the DMC in its role as an advisory body..

All agreed that any activities covered by the MOU fell absolutely and completely under the ASA Code. It was accepted that once cases had commenced, there may be opportunities to update or amend the MOU as necessary.

**Actions Points:**

* **GK to inform DMA that the DMC may be required to advise the ASA in the event of an Appeal.**
* **SH agreed to produce a summary of non-member complaints**

1. **Complaints:**

* **February – April complaints**

SH had circulated a breakdown of complaints for the last three months.

SH had circulated a summary of three complaints against a member in the third party broker space. The complaints had identified concerns around the reliance on legitimate interest as grounds for processing, and others related to the duration of a consent.

Formal investigations:

* SH reported on a formal investigation into a mail order business which related to a complaint from a consumer who believed the offer to be misleading. GK and SH were to have an informal discussion with the member and an adjudication date would be arranged in due course.
* SH updated Commissioners on a recent formal investigation which had resulted in a recommendation to the DMA Board that they remove the company from membership. This had now been approved. The DMC had posted a website statement on its website and the DMA had written to the member and circulated a press release to the media.

1. **a) Responsible Marketing Group:**

* SH had circulated minutes of the last three meetings.
* **b) AI Working Groups**

GK updated Commissioners on recent AI working group meetings run by the ICO. The DMC was the only self regulatory body at the meetings. There were already two working groups and two more were to be set up around the use of machine learning in regulation and auditing algorithms. GK agreed to send round a list of items that the AI group might want to look at, in particular ‘vulnerability’ in the use of AI.

**Action Point: GK to circulate a list of possible items for discussion at AI Group.**

1. **General DMC Matters:**

* **Re-brand – update**

SH and Rachel Aldigieri had met with Jack, the agency who were working with the DMA on their re-branding exercise. They were to produce a two tier proposal with the essential items first, such as a new logo, website re-skin etc., and a second tier proposal which would look at future needs such as a full re-vamp of the DMC website. Commissioners were concerned over the fact the DMC seemed behind in terms of having a “direct marketing “ title in the Code, in its Articles and other online references and were anxious to move into step in terms of terminologies.

A small Working Party would be set up to progress the DMC’s re-brand process effectively. SD offered to be part of this group.

* **DMA activities**

Mike Lordan and John Mitchison were unable to attend. In their place, Arthur Cummings, DMA Compliance Consultant reported on DMA activities. The DMA’s re-brand to align DMA, DMA Talent and the IDM was nearly complete and would be launched shortly. The re-vamped DMA website was due to be launched the following week. John Mitchison would liaise with SH about the revised Code and plans/timings for its release.

AC reported that compliance visits had shown that members had undertaken a great deal of work for GDPR compliance although they were still seeing minor errors. AC agreed to find out how many companies were allowed to renew each year.

The TPS tender was nearly complete and would be submitted on 17th May.

* **DMC database – update**

SH reported that this was now complete. An ongoing support package had been agreed of four hours per quarter.

* **DMC Annual Report coverage**

SH had circulated press coverage in Decision Marketing.

SH reported that the Responsible Marketing Committee had suggested the DMC write a short summary of activity following each DMC meeting. It was agreed that GK and SH would draft a short article and circulate to Commissioners for approval.

**Action Point: GK/SH to draft summary for DMA website**

1. **Any other business**

SH confirmed that training for two people to support SH in the event of holiday cover or absence was to be arranged. Identifying the trainees had been delayed because there was a possibility that SH would require assistance on a permanent basis should her time be allocated to other areas of work outside DMC.

1. **Future Meetings 2019:**

**Thursday 12th September**

**Wednesday 11th December**