**MINUTES**

**of the**

**DIRECT MARKETING COMMISSION**

**on**

**Wednesday 11 December, 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)

John Mitchison, Director, Policy & Compliance, DMA (JM)

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

1. **Apologies for absence**

There were no apologies.

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

The minutes of the last meeting on Tuesday 1 October were approved.

**Matters arising:**

All agreed on a target of February for the DMC to be more clearly positioned (under the Code section) on the DMA website – SH thought this would happen at the same time as the DMC’s name change is reflected across both the DMC and DMA websites.

The ASA had agreed to produce a flowchart of the ASA/CAP process for when a complaint is passed to DMC. This had been delayed but SH agreed to chase this up.

Rachel Aldighieri, the DMA’s MD had agreed that the DMC’s full re-brand would take place in the new financial year 2020.

A rough draft of the latest Cookie guidance had been produced – but this was still awaiting comments. FG offered help to JM if needed.

Actions Points:

* Ensure DMC name change is positioned under Code section of DMA website.
* SH to chase ASA.
1. **General update**
* **Chief and Independent Commissioner positions – update**

ML/SH reported that both positions had been advertised and also posted on the DMC website with a closing date of end December. The website links had been shared with Commissioners.

All agreed to send the job ad links to their individual connections. Other sites for posting ads were discussed and FG suggested ML may wish to make contact with a potential applicant who had shown an interest in the Chief Commissioner position.

Action Point: ML to connect with potential candidate for Chief Comm position.

* **DMC structure – independence**

SH had circulated a briefing paper which GK had shared with the DMA Board at its meeting on 24th October. It was agreed that a two page paper based on GK’s ten points outlined in the briefing paper on the DMC’s ongoing operational robustness and how that is reflected in its constitution and structure, should be shared with Commissioners for the February meeting. CP agreed to work with GK on the paper. It was agreed that the paper should also cover succession planning for the Chief Commissioner and Secretariat’s roles.

Action Point: GK/CP/SH to prepare the two page report and circulate to Commissioners.

* **DMC name change**

The DMC’s Certificate of Incorporation for its new name had now been received, and it was legally now the Data and Marketing Commission. The DMA legal team had informed SH that any changes should be made as soon as possible and at the same time, so that the DMA Code is amended in line with the DMC website. SH had arranged for the logo to be amended to incorporate the new name, and prepared stationery and website changes. SH was liaising with JM to ensure that the name change would be accommodated onto the DMA website and the DMA Code as soon as possible. This was likely to happen early in the new year.

* **DMC privacy & cookie policy – update**

SH reported that in the light of new guidance on cookies, the DMA legal department was to look at the DMC’s policy and make any amendments if required. JM said that the compliance department would be looking at this.

Action Point: SH to liaise with DMA compliance in relation to DMC’s cookie and privacy policy.

* **DMC database training – update**

SH reported that training for two DMA staff (which ML would identify) would be undertaken early in the New Year. The DMC’s database consultant had suggested a two hour training session and this would be supported by an accompanying handbook.

SD suggested a review of the DMC database.

Action Point: SH/SD to arrange database review meeting.

* **Company Secretary position**

SH reported that there was to be a replacement Company Secretary. Further details would be provided as soon as possible.

1. **Complaints**
* **October - November complaints (enc)**

SH had circulated summaries of complaints for the last two months.

In particular, there had been two complaints against a member in the door drop delivery sector. SH reported that there had been no responses to the DMC’s enquiries, despite repeated reminders. The cases would now progress to a formal adjudication.

An ongoing complaint about an order of business to business email data which resulted in the complainant being blacklisted from its email platform provider was also discussed. CP had liaised with SH on this complaint.

SD asked if the Secretariat could keep a list of members involved in B2B disputes or consumer complaints which are coming on to the DMC’s radar on a regular basis.

Action Points:

* SH to progress formal investigation.
* SH to commence a ‘watching tally’ of repeated member complaints.
* **Previous complaint (enc website extract)**

SH reported on a previous complaint which had been informally resolved. This had centered on a complaint from a consumer about a renewal notice received from an insurance company. At the last meeting, Commissioners had discussed whether or not the renewal notice received constituted ‘direct marketing’. It had been agreed that FG/SH would draft a note back to the consumer. This had now been actioned.

Following discussion, and on FG’s advice, all agreed that having further reviewed the guidance in this area, a further note would be sent to the member and complainant which encapsulated the Commissioner’s views.

Action Point:

* SH to revert to the member and complainant.
* **Formal Investigations**

Commissioners discussed a recent investigation which related to three complaints raised against a member in the data broking and lead generation sector. Due to the company’s membership status, the case had not reached a formal adjudication, but the Commissioners had met previously in any event to discuss the key issues and reach a view. The Commissioners had agreed that the DMC would, in future, assess cases, particularly those which related to lead generation and third party data broking and where data had been processed under Legitimate Interest, against the current DMA’s guidelines for Consent timescales. CP had informally told the DMA of the DMC’s position. GK had spoken to the DMA’s Responsible Marketing Group.

Final wording for the DMC’s position was agreed and letters were to be sent to DMA, the former member, three complainants, ICO and ASA/CAP. The DMC’s position would be published on the DMC website. JM agreed to look at messaging for the DMA website.

Action Points:

* SH to prepare and send letters to the member, complainants, ICO, CAP and publish message for the DMC website.
* JM to look at messaging for the DMA website.
1. **Responsible Marketing Group**
* **Recent minutes**

SH had circulated minutes of the last meeting on 17th October. In particular, marketing to minors had been a subject of discussion – this looked at the grey area where children can be tricked into giving away their data without fully understanding what this can lead to.

* **AI working groups**

GK and SD updated Commissioners on a recent conference call and discussed vulnerability and the exploitation of vulnerability.

1. **General Matters**
* **DMA activities**

JM and ML reported on DMA activities. SH had circulated draft guidance on digital advertising. CP said this should be ready by the end of January.

E-privacy law: the EU’s deliberations were delayed and it was likely to be at least six months before a new draft was available.

TPS Board: ML reported that Colin Lloyd had retired as Chair. The Board would in future be more streamlined and Michelle de Souza, Age UK would be the new Chair. The changes would take effect from 1st January.

* **Annual Report 2018/19**

It was agreed that Commissioners would provide the following articles for the Annual Report. This would be provided by mid January.

* SD – Artificial Intelligence
* GK – Legitimate Interest
* FG – Cookies and E-Privacy

Action Point: All above to provide articles to SH by mid January.

1. **Any other business**

GK and Commissioners formally thanked RH for her commitment to the Commission over the last six years.

1. **Future meetings 2020**

**10.30am at the DMA:**

**Thursday 6 February**

**Thursday 14 May**

**Thursday 10 September**

**Thursday 10 December**