**MINUTES**

**of the**

**DATA & MARKETING COMMISSION**

**Monday 18th May 2020 at 1.30pm**

**on ‘Zoom’**

**Present:**

Amerdeep Somal, Chief Commissioner (AS)

Karen McArthur, Independent Commissioner (KM)

## Dr Simon Davey, Independent Commissioner (SD)

Fedelma Good, Industry Commissioner (FG)

Charles Ping, Industry Commissioner (CP)

George Kidd, former Chief Commissioner (GK)

**In Attendance:**

Suzi Higman, Secretary, DMC (SH)

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

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

1. **Welcome and apologies**

This was the first meeting of the new Chief Commissioner, Amerdeep Somal (AS) who introduced the DMC’s new Independent Commissioner, Karen McArthur (KM) and welcomed all. This was also GK’s final meeting as his tenure was to complete at the end of June.

AS‘s initial impressions were that the DMC was inherited in very good order thanks to GK and the Commissioners. AS had some initial thoughts below:

* DMC independence – we need to demonstrably show our independence, in terms of the ‘external lens’ not just through our adjudications – also through the DMC website which should look and feel different to the DMA website in terms of colour, tone and content.
* DMC branding - the DMC should think about its branding, and also its accessibility – clear signposting is needed – particularly on the DMA website.
* Commissioner participation and ongoing engagement around negotiations is important – e.g. for any future co-regulatory model.
* Cleaning up the profession and the industry – what role can DMC play and DMA membership play in upholding standards, learning and improvement?
* What do we want out of the Board meetings – perhaps there will be some item updates which can be dealt with via email correspondence leaving quality time to brainstorm bigger issues and horizon scanning.

All agreed with the above thoughts. These would be discussed at a future Away Day meeting to be arranged when safe to do so in the light of the current pandemic.

AS would meet with the ICO’s Deputy Commissioner in due course to discuss the ICO relationship with DMC.

Action Point: SH to arrange Away Day when face to face meetings are possible.

1. **Minutes of last meeting + matters arising**
2. **Minutes of Thursday 6th February**

The minutes of the last meeting on Thursday 6th February had been circulated and approved with a minor amendment to point 4.

Action Point: SH to re-write Point 4 – Recent Complaints to better reflect SD’s point.

1. **Action points**

It was noted that since the agreed Memorandum with the ASA/CAP last year, the DMC had not yet received any complaints. CP agreed to talk to the ASA directly.

JM agreed to provide a flowchart or diagram which definesthehierarchy, intersections and interactions of how some possible mix of Codes of Practice and Conduct and GDPR guidance and the DMA Code might relate.

Action Points:

* + CP to liaise with Shahriar Coupal at the ASA.
  + JM to produce flowchart.

1. **General update**
2. **DMC structure – independence and a co-regulatory role**

JM updated Commissioners on progress for a potential co-regulatory function for the DMC. It was anticipated that a new Code could be prepared by the end of this financial year – JM pointed out that any co-regulatory function would only relate to GDPR as this was allowed for under GDPR legislation. FG pointed out that the predominant volume activity for many companies would fall under PECR rules.

1. **DMC annual report – update**

SH reported that this was now complete and had been sent to stakeholders and published on the DMA and DMC websites.

1. **DMC position – LI timescales/rolling out to members – update**

The Commissioners had agreed previously that the DMC would, in future, assess cases, particularly those which related to lead generation and third party data broking for telephone and postal purposes, and where data had been processed under Legitimate Interest, against the current DMA’s guidelines for consent timescales.

JM had agreed to look at how this could be promoted to DMA members. He had raised the issue of adding the timescales to the DMA Code at the last DMA Responsible Marketing Committee meeting and he would be raising it in more detail at the next meeting in June – this would then be published online and it was likely amendments would be made to the Code. JM supported the DMC taking this new position forward and using it in any future adjudications.

1. **Independent Commissioner position/SD tenure**

SD was due to stand down at the end of this year, following his second term. It was agreed that SH and ML would look at external advertising to secure a replacement.

Action Point: SH/ML to commence advertising.

1. **Complaints**
2. **March and April complaints**

A breakdown of complaints for the last two months had been circulated to Commissioners. Complaint numbers were very low due to the current Covid-19 crisis. Commissioners discussed whether it was necessary to include all member and complainant correspondence with the Secretariat in the papers. It was agreed that this was a helpful format for member complaints despite the volume, and SH would continue presenting the papers this way.

1. **Formal case – adjudication and update**

Following a recent adjudication, the DMC had recommended to the DMA Board that the member was removed from membership. This had been accepted and the DMA had now written to the member to inform them.

1. **Responsible Marketing**
2. **Responsible Marketing Committee**

SH had circulated minutes of the last three meetings on 23rd January, 12th March, and 23rd April.

* + JM reported that a final version of the ICO Direct Marketing Code was due to be published at the end of the year though due to current events, timing was now unknown.
  + The RMC now had a new Chair, Gilbert Hill.
  + AS would be attending the RMC to fill GK’s position.
  + The Cookie Guidance had not yet been published – FG offered to read it in advance. CP said he would also like to see it when drafting complete.

1. **AI Working Groups**

SH had circulated minutes of the last meeting on 10th March. Both AS and SD now sat on the Committee. FG offered to attend if required at any point.

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

### JM updated Commissioners on DMA activity:

* + DMA staff were working from home - staff wellness was a priority.
  + DMA had set up an advice and resource centre and lobbying efforts had been well received.
  + All staff had been given access to the IDM’s online learning.
  + The legal helpline had been enhanced and a law firm engaged to give some free advice to members.
  + There were no more F2F events planned for the immediate future.
  + The DM Trust had awarded funding to the IDM for a Home Learning Fund for employees on furlough or who had been made redundant due to the Covid-19 outbreak – this gave access to online digital marketing courses and professional qualifications.
  + The Summer Lunch had been cancelled and they were unsure as yet on the DMA Awards and whether there were likely to be sufficient entries.

1. **DMC privacy & cookie policy/banner – update**

A revised cookie banner had now been published on the DMC website – there were a few minor amendments to be made to the Cookie policy. This should be complete in a few days.

1. **DMC database training – update**

Two trainees had now been identified and dates arranged in May for a one-hour online training session with each trainee. SH reported that the trainees would be supplied with handbooks and contact details for the IT consultant in charge of training who also provides ongoing support for the database.

1. **Sanctions checklist/scoring tool – for review**

At the last adjudication meeting, it had been decided that the sanctions checklist/scoring tool may need to be amended. GK had made some suggestions which had been circulated to the Commissioners as his concern was that only one or two tests related to the actual conduct of the member and others went to reach and scale and impact.

All agreed that that whilst the scoring system and checklist does work, there was a need to look at member behaviour as much as impact and whether the right balance between the two has been struck. This would be discussed further at an Away Day and the checklist tested against a previous formal case.

1. **Register of Interest forms**

SH asked all to complete and return their Register of Interest forms.

Action Point: Commissioners to complete forms and return to SH.

1. **Commissioner branding (business cards/email comms etc)**

It was agreed that AS may benefit from having a DMC email address – SH agreed to look into this and how it could be set up.

Commissioners also discussed the benefits of receiving papers digitally as opposed to physical papers – some felt that physical papers were helpful especially when looking at large volumes of case materials. SH agreed to find out how other organisations may deliver case materials. KM suggested a number of possible digital storage platforms for case work.

Action Points:

* + SH to look at setting up DMC email address for AS.
  + SH to look at how other bodies distribute case materials.

1. **Any other business**

There was no other business.

1. **Thanks to George Kidd**

All thanked George individually for his commitment and hard work over the years. A formal leaving social would be arranged as soon as it was possible to meet face to face.

GK’s tenure continued until the end of June and he and AS would be attending the DMA Board meeting on June 24th.

1. **Future meetings 2020**

**10.30am at the DMA/Zoom:**

**Thursday 10 September**

**Thursday 10 December**