

**MINUTES**  
**of the**  
**DIRECT MARKETING COMMISSION**  
**on**  
**Thursday 7<sup>th</sup> December 2017**  
**at**  
**The DMA offices**

**Present:**

George Kidd, Chief Commissioner (GK)  
Fedelma Good, Industry Commissioner (FG)  
Dr Simon Davey, Independent Commissioner (SD)  
Charles Ping, Industry Commissioner (CP)  
Rosaleen Hubbard, Independent Commission (RH)

**In Attendance:**

Suzi Higman, Secretary, Direct Marketing Commission (SH)

**1. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**2. APPROVAL OF MINUTES OF 14<sup>th</sup> SEPTEMBER 2017**

The final minutes had been circulated to the Commissioners prior to the meeting. These had been approved with a minor amendment and would be published on the DMC website.

SD queried reference in the last minutes to a possible case study for the DMC's Annual Report in relation to the use of suppression files transferred between supplier and client. It was agreed that if a case study was not included in this year's Report it could be used in any event as a case study in the future.

SH updated the Board on revised guidance issued by the DMA's Door Drop Council following a case earlier in the year. The Door Drop Committee had now merged along with other DMA council committees (Mailing House, Inserts, Admail) into the Print Council and a new Chair, Kerry Holden of MailBird (former Chair of the Mailing Council) had been appointed. The guidance had been updated prior to the merger and was on the DMA website, however the DMA were to update the material again in the near future to reflect GDPR legislation.

**3. MATTERS ARISING**

**(a) Fax Preference Service statistics**

At a previous meeting FG had been concerned that fax marketing was an area for which there was little or no guidance. SH had raised this with the DMA and offered help or guidance if required. John Mitchison had reported there would be no changes under the new legislation.

#### 4. **RESPONSIBLE MARKETING COMMITTEE – update**

##### **(a) Minutes of last RMC meeting**

SH had circulated minutes of the meetings in September, October and November.

The Internal Vulnerable Consumer Policy Framework had now been launched and was on the DMA website. SH circulated the document.

Commissioners discussed the options for trade bodies and any associated regulatory body in situations where there are serious and high profile media and other stakeholder allegations of wrongdoing. Codes offered a way of evidencing wrongdoing in relation to Code provisions and might also address any claim that behaviour had brought the Code or body into disrepute. This framework should not be a barrier to membership organisations addressing serious concerns under the constitution of the organisation and the terms of membership. The DMA and DMC should be clear on how they would choose to address such circumstances were they to arise.

**Action Point: GK to liaise with DMA on above point.**

##### **(b) DM Code/consent timescales**

SH reported on correspondence with the DMA on the revised Code wording to reflect that consent should not extend beyond reasonable timeframes. RH had suggested that the words 'actual' was placed before 'purpose' so that it would read that data should not be kept longer than necessary for the 'actual' purpose for which it has been collected, and consents given for marketing purposes should not be assumed to extend beyond reasonable timeframes. John Mitchison was to liaise with Skip Fidura, Chair of the RMC on the matter.

#### 5. **DMC/DMA REVIEW**

##### **(a) Grounds of Appeal – update**

Following an agreement for revised Appeal grounds, SH confirmed that GK had asked the Responsible Marketing Committee to reinstate the Appeal ground in relation to ensuring the proportionality of sanctions - this was to be reinstated on the basis that the IAC would hear the 'reasoning' for the sanction, that is, the process, decisions and factors taken into account when setting the sanction, rather than seek to reach views on the breaches decided upon by the Commissioners. GK confirmed that the revised grounds had been accepted by the DMA, but that the Code had not yet been amended.

SD was concerned that there was a risk of exposure should there be an ongoing formal investigation that went to Appeal, when the revised grounds were not in place. It was agreed to communicate to the DMA Board that the DMC would like the revised grounds signed off as soon as possible to negate exposure should any unresolved cases reach the point of Appeal.

**Action Point: GK to liaise with DMA re Appeal Grounds.**

##### **(b) Commissioner Effectiveness Evaluations**

GK, FG, RH and SD had completed their forms. SH raised salient points from the forms submitted as follows:

- It was agreed that all were happy with the size of the Commission Board.
- It was agreed that more regular contact with the DMA was needed, particularly relevant to the independent Commissioners who may not be so aware of key issues around, for example, areas such as GDPR.

**Action Point: SH to invite DMA to next meeting to present the DMA's overall and GDPR strategy, vision and stream of communication.**

- It would also be helpful to find out more about the type of issues and queries brought to the attention of the DMA legal team because some of their concerns may also synchronise with issues seen by the DMC.  
**Action Point: SH to ask DMA legal to present at Spring meeting.**
- Succession planning:
  - a) Commissioners – it was agreed the Board could benefit from a more diverse and younger representation on the Board.
  - b) Secretariat support – it was agreed there was a need to have support/plan for succession in place particularly post GDPR.  
**Action Point: SH/GK to liaise with DMA.**
- There was a suggestion to allocate time to agenda items. SH agreed to test this for the next meeting.  
**Action Point: SH to allocate time slots to future agenda items.**

## 6. **COMPLAINTS**

### **(a) Summary of complaints: September – November 2017**

SH had circulated a monthly summary of complaints over the last three months.

At the last meeting SH had reported on a member company in the B2B data sector. There had been two previous complaints which related to corporate individuals wishing to unsubscribe from business emails. For one complaint, the member could not find the individual's email address on its database and the complainant had not provided sufficient evidence to prove otherwise. For the second complaint, the company argued that they had changed email sending platforms and this had caused difficulty with actioning the unsubscribe function. The member appeared to have made some progress in addressing its technical problems with a new email sending platform and the case had been informally resolved and a formal reminder of obligation issued under Rule 1.2 on *operating and maintaining an in-house suppression file*.

A third complaint had been received in November against the same business. This also related to business emails received to another corporate company to two of its generic email addresses (ie info@ or sales@). The company had unsubscribed on a single occasion on one of its generic email addresses (no date known but this could have been years previously) and had not unsubscribed on its second, also generic, email address. The company had told the Secretariat that it had been advised not to unsubscribe because that would let the member know that its email address was live and lead to further unwanted emails. The company had made contact with the member by telephone but its request to unsubscribe on one of its email addresses had not been actioned. It was noted by Commissioners that business emails were permissible to corporate bodies, and in this latest case, there had been little attempt on behalf of the complainant company to unsubscribe. Additionally, the email addresses were generic addresses and not personally identifiable. SH would update Commissioners on the outcome of this case in due course.

### **(b) Case for discussion/ICO penalty notice**

The DMC and DMA had met earlier in the month with a member in the lead generation business to discuss whether it is consistent with the Code for companies in this sector to make marketing calls to individuals on the TPS register where the member or member's sub-contractor does not know the source of the data or the nature of the alleged consent to marketing calls, even if the party called did give consent to further marketing during a call, which itself may have been in breach of TPS rules.

A draft paper to the DMA had been circulated to Commissioners prior to the meeting. The final version would ask the DMA to consider whether the business model discussed

was consistent with the DMA Code, and ask how - in the light of external DMA audits, recent ICO cases, and lead generation being one of the most challenging areas - the DMA anticipates reflecting the requirements of the Code in terms of third party acquisition.

SH would inform the member of the DMC's plans to seek DMA consideration.

FG noted that she had been named on the discussion document provided by the member, but asked that this was removed as she had been unable to attend the meeting.

GK reported that he would be responding to the ICO's letter to him in relation to a case against a former member of the DMA. This also related to third party data acquisition. At the time, the ICO were not aware the member was no longer in DMA membership.

**Action Points: GK to write to DMA. SH to respond to member.**

## **7. GENERAL MATTERS**

### **(a) DMA activities/preference service/compliance**

SH had circulated a short paper from Mike Lordan about DMA activities.

### **(b) DMC Database**

SD reported that the new database/CRM system would be not be progressed until the New Year. SD asked the Secretariat to confirm, as the budget for the new system would now fall within next year's budget, that this was acceptable to the DMA and to ask if the DMA would consider a slight increase in cost.

**Action Point: SH to liaise with DMA.**

### **(c) Annual Report – content and communications**

SH had circulated a draft version of the latest Annual Report. A number of comments were made on the design, layout and content. SH would feedback to the designer and liaise with GK. SH said the report should be ready for release in early January.

**Action Point: SH to progress Annual Report and send draft to Commissioners for approval.**

## **8. ANY OTHER BUSINESS**

SH reported that the DMA were conducting an audit on its own compliance in time for GDPR and that the DMC was included in this audit. The website's privacy policy would be updated in time for GDPR commencement in May.

## **9. FUTURE MEETINGS 2018**

Thursday 1<sup>st</sup> February  
Wednesday 9<sup>th</sup> May  
Wednesday 12<sup>th</sup> September  
Wednesday 5<sup>th</sup> December

All 10.30am start at the DMA offices.