

**MINUTES**  
**of the**  
**DIRECT MARKETING COMMISSION**  
**on**  
**Thursday 1<sup>st</sup> February, 2018**  
**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)

John Mitchison (JM) Director of Policy & Compliance (attended in part)  
Rachel Aldighieri (RA), MD, DMA ( attended in part)

**1. Apologies for absence**

There were no apologies for absence.

**2. Minutes of last meeting + Matters Arising**

The final minutes had been circulated to the Commissioners prior to the meeting. These had been published on the DMC website.

FG asked if there had been any headway on succession planning as discussed at the last meeting. GK said that succession planning for Commissioners would be looked at in the context of a later discussion on DMC remit. SH said in relation to possible support/back up/succession to SH, this was in progress – GK thought he may have identified someone to help.

SH updated SD on costs for the DMC database. Ring-fenced costs were £20k, but given this was now going to roll over to the next financial year, costs may rise slightly. The DMA's Financial Director, Ken Goulding had been informed and had said that there will be a meeting early March with the ASBOF financial committee and ideally we should have a final figure to put to them at this time. GK pointed out the importance of the new system being scalable.

### **3. Responsible Marketing Committee:**

#### **Meeting 18<sup>th</sup> January 2018 – update**

GK reported on the last meeting of the Responsible Marketing Committee. JM updated Commissioners on discussions the Committee had around the use of the edited electoral register which can be used by data companies for cold marketing purposes and also to keep databases accurate and up to date. Discussions had centered around whether the register should continue to be used for this purpose.

Commissioners discussed potential issues in relation to the DMA Code if use of the edited register continued. There were two particular points of concern, particularly in the light of the upcoming GDPR legislation: the clarity of consent if marketing is used for the data in terms of what consumers are told by their local authority at the time they are given the opportunity to opt-out; and that the data could be used to add to databases to help create composite profiles of individuals.

The Commissioners thought that whilst the continued use of the Register was an issue for the DMA and not the DMC, in any event the DMC should pass on the concerns it has identified to the Responsible Marketing Committee.

**Action Point – GK to liaise with RMC/DMA on the above points.**

#### **Minutes of last meeting 16<sup>th</sup> November 2017**

SH had circulated minutes of the Responsible Marketing Group meeting on 16<sup>th</sup> November.

### **4. DMA GDPR Strategy/DMC remit**

The DMA's MD, Rachel Aldighieri, updated Commissioners on the DMA's GDPR plans. The DMA had commenced production of guidance documents - working with the GDPR Taskforce, IDM, RMC, ISBA, DPN and ICO to create the documents. There were to be four key documents, these would be made public and also be given to other trade bodies, including the NCVO and IoF.

It was agreed that the DMC should be able to review the final drafts of the guidance documents and feedback to the DMA with any comments.

It was also agreed that complaints received post GDPR will be dealt with as they are currently in that the DMC assesses the complaint in the light of the DMA Code, and not through legislation. The Code itself will be supported by the new legislation and accompanying guidance. Commissioners recognised the importance of members being in a position where they can demonstrate their thinking and ensure they have clear and transparent audit trails to evidence their compliance.

FG suggested that the DMC has an identified individual at the ICO that it can reach in terms of issues that emerge from GDPR. JM has a weekly call with the ICO and he thought this contact could be accessed unless there was any conflict of interest between the DMC and DMA.

FG informed Commissioners that she had been invited to join the DMA Data Council GDPR hub (which feeds back to the main DMA GDPR taskforce) and asked Commissioners if they considered this a conflict of interest. Both Commissioners and RA did not think there was a conflict, and considered it helpful for the DMA to have a DMC representation on the hub.

**Action Point – RA to send draft guidance to DMC for comment.**

RA also discussed a proposition for the DMC to potentially widen its remit to take on an advisory role for data cases outside membership. This would involve aligning itself to other bodies which already see complaints of this nature but where resource or expertise is not so accessible. RA said that talks were in progress and the DMC would be updated as soon as possible with any further progress. The Commissioners thought that any proposition should be seen as an 'evaluation', and it was strongly recommended that any proposal should cover check points for effectiveness, impact and resources with an opportunity for the DMC to decline if it so wished. It was agreed that the DMC would prepare a document re-stating the DMC's role, value proposition and boundaries. This would be drafted, circulated to Commissioners and sent to the DMA within ten days.

**Action Point – DMC to prepare document for DMA.**

## **5. Letter to DMA:**

### **Appeal grounds; Code amendment/consent; Managing high profile 'repute' cases; Lead generation/Code; GDPR and role of DMC**

As agreed at the last meeting, GK had sent a letter to the DMA on the above points.

GK reported that he had had a conversation with Chris Combemale, Group CEO. The Code amendments were to go to the next DMA Board meeting to be agreed/finalised. In terms of the issue of managing high profile 'repute' cases – the DMA was going to revisit its Articles and more importantly its member contracts. The DMA was to provide a formal response to the DMC's points on lead generation and its place in the DMA Code and will inform the DMC in terms of which Council would be allocated to look at this issue.

CP asked for clarification on DMA Council structures – he requested that Commissioners were informed whenever there were any changes to Councils, particularly in terms of the Customer council and the council dealing with third party data.

**Action Point – SH to provider clarification and information on DMA Councils for next meeting.**

## **6. Complaints:**

### **Summary of complaints November, December.**

SH had circulated a summary of complaints for the months of November and December. One case involved a consumer who had complained about the number of inserts received in his membership magazine. The member had said it could not remove inserts for specific individuals. The case had been informally resolved as no breach had been found.

Another case involved unwanted business-to-business emails sent to a generic email address, where the complainant had been unable to unsubscribe. This had been informally resolved but there was a concern that the member had not been able to identify how the addresses had been collected. If there were personal business email addresses in the list then this would not be viewed as fair processing. It was agreed that for any cases going forward that highlighted a concern, for either formal or informal cases, the DMA would be informed.

A further case under discussion involved a consumer who had received an email promoting health insurance addressed to an incorrect name. The member company which had sent out the email on behalf of the insurance company had provided the consumer with the company name from which it had purchased the data. However, the consumer had not received sufficient detail to show how he had consented. The company which sold the data on to the member had told the consumer that he had not provided sufficient identification to evidence that he was the recipient of the unwanted email. The Secretariat had requested details of the member's due diligence process. However, whilst there was no evident breach of the Code, and there had been no previous complaints against the member, there was little evidence supplied in response to the Secretariat's queries. It was agreed that the Secretariat would arrange a meeting with the member and Commissioners to discuss the member's processes and agree how best to deal with the matter.

**Action Point – SH to arrange meeting with member.**

## **7. Previous case – court order**

This item related to a case previously investigated. SH had reported that there had been a court order and information had been provided to the police.

It was agreed that it would be useful to prepare a document which highlights the actions taken by the DMC over the course and subsequent to the investigation should our decisions be questioned in the future. We would copy this to the Appeals Commissioner and former Commissioners who were in place during the time of the investigation.

**Action Point – SH to prepare document and circulate as above.**

## **8. General Matters:**

### **DMC database**

This was discussed earlier in the meeting. SD would contact SH to arrange a meeting at the end of February.

### **Annual Report – update**

SH reported that the Annual Report was now complete. A copy had been circulated to the Commissioners. The DMA's PR department had sent out a press release and as a result there had been around eight articles to date in the marketing press. SH reported that the DMC website had also placed the press release and Annual Report on the home page in the news section, and there had also been an email sent to other organisations, such as ICO, OFCOM etc. The DMA were to place the article on its website and the Responsible Marketing Group and Councils would also receive a copy.

SD asked if he could re-use the article he had written for the Report. This was agreed.

### **9. Any other business**

There was no other business.

### **10. Future Meetings 2018 – 10.30am at the DMA**

*Wednesday 9<sup>th</sup> May*

*Wednesday 12<sup>th</sup> September*

*Wednesday 5<sup>th</sup> December*