**MINUTES**

**of the**

**DATA & MARKETING COMMISSION**

**Thursday 10th December 2020**

**10.30am-12noon**

**on ‘Zoom’**

**Present:**

Amerdeep Somal, Chief Commissioner (AS)

## Dr Simon Davey, Independent Commissioner (SD)

Fedelma Good, Industry Commissioner (FG)

Charles Ping, Industry Commissioner (CP)

**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**

Karen McArthur had given apologies for absence.

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

* Minutes Thursday 10th September

These were approved.

* Matters arising

Away Day: SH was gathering topics for discussion at the Away Day. So far, topics would include: Early Dispute Resolution, Sanction and Commissioner Checklist Evaluations; Effectiveness Evaluations for Commissioners (including obtaining feedback from stakeholders); new Co-Reg model/process.

Complaints process: JM had circulated draft complaints process flowcharts for the new model.

JM would also revise the Hierarchy of Codes chart and matrix (which will be eventually used as a tool to promote the Code) to reflect the DMC relationship with the ASA/CAP and its Code as well as alter the title to remove the word ‘hierarchy’ as there was a concern that it could appear the DMA Code was ‘above the law’. JM would also look at changing the format to make it less linear. He stressed that this was currently a working document and would in due course be styled and designed by DMA.

1. **General update:**

* DMC structure – independence and co-regulatory role

SH had circulated a link to the Draft GDPR Code of Conduct for Direct Marketing and asked Commissioners to look at Section III on the DMC process as a monitoring body and to mark up any comments if needed. AS had suggested that when notifying the ICO of complaints the DMC should incorporate the nature of those complaints as well as the number and outcome.

JM and ML updated Commissioners on plans for the new model. ML was looking at ways to simplify the audit process and a further meeting with ICO had been arranged for the following week to discuss. The DMA Board had had sight of very preliminary projections and there was to be a Board Planning Day in February to discuss further.

* Independent Commissioner position

AS reported that Quinton Quayle, the new Independent Commissioner, would be joining the Board after Christmas. Quinton, a former diplomat, had a wealth of experience in public, private and not-for-profit sectors, along with a number of regulatory board roles.

* DMC Annual Report 2019-20

SH thanked Commissioners for their inputs. All approved AS’s first foreword to the Report. If there were any further changes to be made, particularly to biographies, then SH would need these by Monday 14th December. SH had also circulated four alternative draft cover pages. SD’s preference was the first cover.

**Action Point: Commissioners to send any further comment by 14th December. SH to then finalise Report and circulate to Commissioners and stakeholders.**

* Youth Observer

SH reported on a conversation with Kate Burnett, Head of DMA Talent to discuss how the DMC may approach sourcing a ‘youth observer’ to attend DMC meetings.

All agreed that the individual should be around 3-5 years into their career, for example, in a junior management role, as opposed to someone who has no experience or is still a student. The DMC would provide an opportunity for the individual to be participate in Board discussions but not involved in the decision-making process, which was for Commissioners only. A confidentiality agreement would be required. All agreed that an 18-month tenure would be suitable. AS suggested that recruitment could take place through all the Commissioners’ Linked In networks. SH agreed to draft a job description and circulate. Thereafter, an advertisement would be produced for Commissioners to share on their Linked In pages. All agreed that though the DMC was looking to recruit an individual at the early stages of their career, the title ‘Youth Observer’ might not represent the role correctly. This would be given some further thought once the job description had been drafted.

**Action Point: SH to draft a job description and circulate to Commissioners.**

1. **Complaints:**

* September – November complaints

SH updated the Board on member complaints for the last three months. The Secretariat was awaiting a response for two complaints and in one case, it appeared that the member was unwilling to provide a response at all. SH would be reminding the member of the Code requirement to co-operate fully with the DMC’s investigations. Should there continue to be no response, it may be necessary to proceed to a formal investigation/adjudication.

Two cases were focused on complaints about unwanted emails, which the member claimed were ‘service’ messages, and SH had circulated the DMA’s Guidance on Service Messaging to the Board. All agreed that a formal investigation should commence into these two cases. SD queried a complaint against the same member in terms of unwanted postal marketing, which had been raised earlier in the year and whether or not this should be re-opened. SH thought the case had been fully investigated at the time, and no evidence of a breach was found, but agreed to examine the case details again for assurance that this was the case.

AS noted the positive feedback to the Secretariat from a number of the complainants over the last three months.

**Action Point: SH to commence formal investigation and will write to the member and complainants.**

1. **Responsible Marketing:**

* Responsible Marketing Group

SH had circulated minutes of the latest Responsible Marketing Group on 24th September and 12th November.

* AI Working Groups

FG and SD updated the Board on recent AI group meetings. There was an ongoing debate about people understanding the outcome of an AI process that results in an impact on the individual, in the context of the Financial Services sector in particular and a debate on how AI was regulated – regulating the outcomes not the tool. SD/FG would share the Common Regulatory Capacity report and SD would try and share a webinar he attended on Regulating for Algorithmic Accountability which drew on experiences in New Zealand, Canada and New York and for which there was a part focus on implications on outcomes for individuals.

AS pointed out that AI should be considered under the DMC’s planning for its new model.

1. **General Matters:**

* DMA activities
  + National Data Strategy

SH had previously circulated the National Data Strategy consultation document to Commissioners for comment. AS had attended a DMA roundtable discussion on the strategy, which had discussed ‘fairness’ and the absence of a definition of this term.

1. **Any other business**

* Key industry challenges

AS reported that she was planning to undertake some industry profile raising for the DMC and would be reporting back on some of the key challenges facing the industry. It was suggested focusing on issues that would affect us this time next year. Suggestions included: E-privacy: driving the digital strategy, the effect of Brexit and how the UK will plough its own furrow in the digital space; AI and how this will affect individuals.

* Farewell to Simon Davey

The Commissioners and DMA’s CEO, Chris Combemale thanked SD for his remarkable contribution to the DMC over his tenure. SD also thanked the DMC and DMA for an ‘inspirational’ six years.

* Re-branding of DMC

ML reported that the DMA was looking to commence the DMC’s re-brand in January.

1. **Future Meetings – 10.30am at the DMA/Zoom:**

* Thursday 4th February
* Thursday 4th March – Away Day
* Thursday 20th May
* Thursday 9th September
* Thursday 9th December + Xmas Lunch