**MINUTES**

**of the**

**DATA & MARKETING COMMISSION**

**BOARD**

**Tuesday 6th September 2022**

**10.30am DMA offices/Zoom**

**Present:**

Amerdeep Somal, Chief Commissioner (AS)

Quinton Quayle, Independent Commissioner (QQ)

Karen McArthur, Independent Commissioner (KM) – via Zoom

Charles Ping, Industry Commissioner (CP)

Fedelma Good, Industry Commissioner – retiring (FG)

Robert Bond, Industry Commissioner - incoming (RB)

**In Attendance:**

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

Simon Davey, DMC Independent External Consultant – in part (SD)

Suzi Higman, Secretary, DMC (SH)

1. **Welcome and apologies**

AS welcomed Robert Bond, the new Industry Commissioner and replacement to FG. All introduced themselves.

John Mitchison, DMA Director of Policy & Compliance had been unable to attend.

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

**Minutes - Thursday 12th May**

These had been approved.

**Action points**

These had been actioned.

**Independence + Impartiality** *(Conflicts of Interest declarations + DMC Risk Register/Code Risk Monitoring)*

This was now a standing item. It was an opportunity for Commissioners to declare any conflicts of interest, and for the DMC to add any key issues to the Risk Register.

Commissioners confirmed that their Register of Interest declarations were up to date.

RB said as he undertakes work from time to time with DMA members, he would declare a conflict where appropriate.

Some further amendments to the DMC Risk Register were agreed:

* Items 1 + 2 + 11 + 15 – needed amending to identify risk rather than opportunity.
* Item 8 - *The DMC may have insufficient funds to meet business needs depending on the pace of growth of the IMB and experience cash flow difficulties.*

CP expressed his concern that if DMC succeeded with securing seed funding that given the nature of growth of the current economic climate, it could be possible to run out of funding before the new model starts performing.

It was agreed that the risk level should be increased. The impact should be 5 out of 5 and probability at 3, with post-mitigation probability and impact at 2 and 4 respectively.

**Action Point: SH would make changes as suggested and share with SD.**

1. **DMC/IMB/DMA – update:**

**Industry Commissioners – update**

AS confirmed that the second Industry Commissioner had now been appointed alongside RB who had formally commenced on 1st September. Gilbert Hill, the current Chair of the Responsible Marketing Committee (RMC) at DMA was due to commence on 1st December replacing CP. He would be stepping down from the RMC by the time his tenure started.

**Independent Appeals Commissioner – update**

AS reported that interviews were to take place on Friday 9th September for the position of Independent Appeals Commissioner replacing John Bridgeman who was retiring.

**Independent Complaints Assessor – update**

This was a new role, as an independent person was required to review complaints about the quality of service by the DMC. Interviews were also to take place on Friday 9th September.

Rosaleen Hubbard, a regulatory lawyer and former Independent Commissioner, had agreed to be the independent external Chair of the interview panel. There were two candidates for the Independent Complaints Assessor post and three for the Independent Appeals Commissioner position. AS and QQ were also on the interview panel for both roles.

**Meeting with ICO Information Commissioner - update**

FG, CP and AS reported on a positive meeting with John Edwards the new Information Commissioner. AS would touch base with the Chief of Staff as well as Ian Hulme, Director of Regulatory Assurance.

**IMB update:**

ML and KG had updated the draft budget with assumptions. Any decision on the budget and audit process would need to be made by DMC. ML said he would forward the draft budget to SH who would circulate to QQ and AS in time for the meeting with DMA on 8th September. *(Update: Chris Combemale’s meeting on the 8th September would now look at the budget from scratch – once discussions had led to a decision on the audit process).*

FG said DMC should not be averse to looking at alternative models for funding if it was not sustainable – AS said this would be explored.

**DMA update:**

ML pointed out that business had been quite tough for DMA but a large contract had been won with the Department of Education (DofE)– for around £650k. This was to roll out the Digital Marketing Strategy Skills Boot camp, which offers anyone currently out of work, and existing employees within companies an opportunity to expand their digital and data-driven marketing skills. ML reported that funding had also been won from the DofE in Manchester.

**Simon Davey, Independent IMB Consultant - update**

SH had circulated SD’s update and items for discussion, which included key meeting dates.

The key challenges were:

* *‘Blending’ IMB requirements for policy, process and evidence against the DMC role supporting DMA with its own DMA Code.*
* *how DMC ‘copper bottom’ the application – e.g. managing gifts and hospitality registers.*
* *the extent of the ‘monitoring’ role the IMB undertakes – DMC has previously been a responsive regulator (responding to complaints) - how it will monitor Code Signatories (pre-empt formal complaints and go beyond self-assessments and two-year audits)*

SD reported that resource and cash flow were the key missing items, there was information needed on the skills and training matrix and GDPR training materials needed to be provided before formal submission as well as producing more robust induction procedures. Overall the evidentiary requirements were quite challenging.

***Key questions raised:***

*What is reasonable in the extent of our monitoring role – Google tracking? Self-assessment monitoring?*

Key comments from the Board:

* it is essential to articulate the purpose of the DMC to measure whether or not it is fulfilling its purpose
* we need a big picture metric that has a long-term tracking benefit
* we need a methodology which compares what we are getting in through the door with another metric that helps to calibrate what we are doing
* the way we train/communicate is important – provide some trackable KPI related to the companies that sign up.
* should we ask signatory organisations how many complaints they have had but should understand the implication on smaller members?
* can we look at what training has taken place in the signatory organisations, and how they have improved having signed up to the Code?

All supported the idea of self-assessment with perhaps a metric which identifies red flags (maybe leading to random/ad hoc visits) for some businesses so based on the size of the company and activity or sector reflecting the level of self-auditing needed. It was felt important not to put companies off however, particularly smaller companies. FG pointed out the importance of remembering this is about the impact on individuals whose personal data is being used for marketing purposes, and thought metrics and evaluation should be by ‘activity’ rather than by ‘industry’.

KM pointed out that this would all require cost and resource and yet not enough is known yet about the scope at this point in terms of sign up, potential problems etc. Whilst helpful to have the discussion this needed to be played back into the budget and if prohibitively expensive DMC may need to push back harder against the ICO.

*Managing the IMB application in terms of the DMA Code and GDPR Code*

SD pointed out that DMC is acting for the DMA in relation to the DMA Code but not in terms of the GDPR Code, we have to be independent. We are therefore writing policies, which have two different ‘levers’. All agreed that it needed to be made clear to ICO that there were two different roles/separate processes.

*Budget*

SD said this was a large piece of work and the meeting with DMA, AS and QQ on 8th September would address this.

*Gifts and Hospitality*

All agreed that the recording of gifts and hospitality could be sent via email to the Secretariat – the onus should be on Commissioners to record any value over £20 with a member/signatory organisation or any company in the process of becoming one.

SD also alerted Commissioners to his new full-time role and whilst he is committed to finishing the project, it would be more difficult to find the time, if many more of his hours were needed down the line. All thought the hours that he can currently commit to should be sufficient.

FG offered to read the policy papers if needed.

SD thanked all for their help and guidance.

1. **General Matters:**

**Complaints – May–July**

SH had circulated complaints for May–July. Complaints remained low and there was a discussion around what the cause could be for the numbers. ML reported that TPS complaints had dropped from around 10k per month to around 2k.

Board commented on reasons including:

* People are using social media more for complaints – quicker and easier than sending emails.
* Previous complaints may be higher due to key DMA members who were no longer in membership (particularly those in the data broking sector).
* Is there apathy amongst complainants – do complainants no longer bother because they don’t think their complaints will be heard or dealt with.
* Are companies more compliant now – following onset of GDPR.
* Are people only complaining about ‘serious matters’ following the pandemic.

All agreed a higher profile and robust mechanism would help encourage consumers to share their complaints with the DMC.

The Board thought it would be helpful to have an idea from ICO on their numbers for complaints across data & marketing and whether they had seen a reduction. It was thought however, that their recording of complaints in terms of categorisations might not identify the right complaints to give us an accurate understanding.

FG would send a link to the GDPR enforcement tracker, which listed GDPR fines.

**DMC Annual Report – update**

SH reported that a draft of this year’s report had been prepared – AS, QQ, and KM had provided their pieces. FG had written a post on LinkedIn which SH could use, and CP agreed to provide his piece asap.

**Action Point: CP to provide piece for Annual Report**

**Responsible Marketing Committee**

SH had circulated minutes of the RMC meeting on 12th May 2022.

SH would also circulate minutes of 30th June after the meeting.

**AI Working Groups**

AS reported that RB had agreed to take over attendance to the AI Working Group until 1st December after which time he would attend the Responsible Marketing Committee. Gilbert Hill the new industry commissioner starting 1st December, who was currently Chair of the Responsible Marketing Committee would be stepping down and would take over attendance of the AI Working Group from 1st December. He would not be attending the Responsible Marketing Committee for at least 12 months to avoid any conflict of interest.

1. **Any other business**

There would be a leaving lunch for FG and CP after the next Board meeting on 8th December. SH was looking for a venue currently.

AS thanked all those who had contributed to her appraisal and was putting in place some of the suggestions made.

AS would be undertaking appraisals for QQ and KM shortly.

QQ pointed out an anomaly in the draft GDPR Code (the latest version submitted informally to ICO). This related to the balance of Commissioners and two sections which mentioned the number of Commissioner was inconsistent. QQ would send the extracts to AS, SH and Simon Davey.

**Action Point: QQ to send over GDPR Code extracts to SH – SH would share with SD**

AS and all the Commissioners and Secretariat thanked Fedelma for her hard work and invaluable guidance given to the DMC over the last six years.

**Future Board Meetings 2022 – 10.30am at the DMA/Zoom**

**Thursday 8th December followed by farewell lunch for CP/ FG – venue tbc.**