**MINUTES**

**DATA & MARKETING COMMISSION BOARD**

**Wednesday 7th February 2024 at 10.30am**

**The Oriental Club, Stratford Place, London W1**

**Present:**

Emma Martins, Chief Commissioner (EM)

Quinton Quayle, Independent Commissioner (QQ)

Kate Staples, Independent Commissioner (KS) – on Zoom

Gilbert Hill, Industry Commissioner (GH)

Robert Bond, Industry Commissioner (RB)

**In Attendance:**

Suzi Higman, DMC Secretary (SH)

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

Mike Lordan, DMA Director of External Affairs (ML)

Chris Combemale, CEO, DMA – in part (CC)

1. **Welcome and apologies**

This was Emma Martins’ (EM) first meeting as the new Chief Commissioner. EM thanked everyone who had taken time to help thus far.

There were no apologies.

1. **Minutes of last Meeting + Matters Arising**
2. **Minutes of 6th December and Action Points**

SH had circulated a copy of the last minutes and these were approved.

All action points had been actioned or were in progression. SH reported that we were still awaiting the Terms of Reference for the DMA’s Governance Committee required for the DMC’s IMB application – this would be chased up. The dummy case study project suggested by KS was being progressed. Business cards and the DMC Risk Register would be discussed later in the meeting.

EM noted minutes from the last meeting which referred to a member company that had resigned following an adjudication and queried the protocol around companies potentially returning to DMA membership at a later date. SH said there was an informal process whereby both DMA compliance and DMA membership were informed about adjudications – but it may be helpful to have a more formal reporting procedure in place. EM would explore this further in due course.

1. **Independence + Impartiality + Funding Risk**

**[Conflicts of Interest declarations + DMC Risk Register(internal)/Code Risk Monitoring Register (encs)]**

No conflicts of interest were declared. The DMC Risk Register was yet to be updated but this would be discussed as a separate agenda item later in the meeting as EM had some additional comments.

1. **Complaints**
2. **Breakdown of Complaints November 2023 – January 2024**

SH had circulated a summary of complaints from the above period.

One complaint had related to unwanted business emails received by a consumer. The complainant had made contact with the member three times to complain but had not received a response. It had transpired that the complainant’s email address was incorrectly allocated to a business due to the mis-typing of a single character. The complainant had made contact with the member three times but had not received a response. The member had been formally reminded of its obligations under the Code and had put in place robust remedial measures to ensure that the situation did not recur. No other complaints against the company had been received and the complaint was informally resolved.

A further complaint had related to an opt-out service for unaddressed mail. The complainant in question was still in receipt of unaddressed mail despite having opted out and had additionally raised other queries around the general operation of the opt-out scheme. SH was yet to receive a full response from the member company. Pending the member response, it was agreed to share the complainant’s concerns with the DMA’s relevant Council (Print Council) which related to the operational process of the scheme.

It was agreed that, in future, complaint summary papers would be shared via Sharepoint.

1. **IMB application/GDPR Code of Conduct – update:**
2. **GDPR Code: Chris Combemale, DMA CEO update**

CC updated Commissioners on progress of the draft GDPR Code. Progress on the Code was contingent on the DPDI Bill completing its passage through Parliament. It was critical that the Code contained PECR as well as DPDI amendments so that the Code reflected full direct marketing legislation. There would be a number of significant changes, e.g. Legitimate Interest as a lawful basis, the soft opt-in extended to charities and changes around cookies etc., which would lead to Code updates as well as updates to the ICO’s policy decisions. It was thought that Committee stage in the Lords had been delayed until after the second week in March (previously expected mid February). There were also other Bills going through Parliament which were taking priority. Work on the Code was effectively on hold until the legislation passed and the ICO had, as an organisation to arrive at its policy positions. The DMA could move forward on an informal basis, but the focus was on getting the Bill through, especially before any General Election. CC hoped for Royal Assent to DPDI in late Spring, possibly late May/early June.

CC reported that alongside the GDPR Code, the DMA was working on comprehensive guidance on DPDI, and working with Fedelma Good (former Industry Commissioner). RB said he had offered to help with this work if required.

CC also reported that the DMA Code was undergoing some amendments in terms of the addition of a ‘people pillar’ looking at skill set development etc., but that this would not impact the DMC as it would not be adjudicating on this aspect.

CC confirmed that DMA would be seeking a full year’s funding from ASBOF (half the funding comes from ASBOF via the MASBOF levy) and they will be submitting a budget in March to ask for this. It was thought that taking revenue in time to contribute to funding for this year was unlikely. ASBOF appear to understand what the aim is, to achieve co-regulation and they understand the challenges.

Finally, CC reported that the DMA was to move to new offices in Holborn the following week and hoped the DMC would hold its meetings there in future.

1. **DMC application - Simon Davey, DMC External Consultant – update**

SD updated the Board on progress on the IMB Application form which had now been drafted in the new format which the ICO provided just before Xmas. This was still a work in progress, but early indications from the ICO (at a meeting with SD, SH earlier in the week) suggested that they were happy with what was being presented. There was a complicated document register to put together with 125 supporting documents which all needed to be cross-referenced against the 51 ICO requirements. SH was seeking advice on an aspect of the sanctions section from RB and EM.

SD pointed out his three-phase approach to the set-up of the new body i.e. an application and planning phase; a set-up phase which would likely involve matters such as Articles changes, the new website, and the recruitment of the Head of Operations role; followed by kick off and operation stage. SD would work with SH to prepare a draft project plan which would be submitted to the Board. This would look at areas such as when recruitment should commence – this could be, for example, when the Code enters its formal submission and there is a 12-16 week period before approval.

The next informal submission for the DMC application would be mid-March. That would include the new application form, revised and tidied up, with any changes necessary to the document repository and document index. The ICO thought it could run 80% or so of checks on the DMC as a monitoring body before the Code was finalised, but DMC could not be fully accredited until the Code was completed.

SD pointed out the delaying risks of a possible early General Election or ongoing changes to DPDI amendments all of which the ICO then would need to put into policy.

It was agreed that EM would meet with CC to discuss the headline financials. SD had put together a financial plan in November 2022 which were the estimated costings for the new DMC. The information to CC would need to include a draft plan for the set-up phase which would contain cost implications before the new body commenced, eg for the Head of Ops role. SD would send the financial documentation to SH who would circulate to the Board.

1. **DMC Risk Register/Comms strategy**

SD stayed for this section given his role in preparing the DMC Risk Register and Code Risk Monitoring Register.

EM updated the Board on thoughts about a potential communications strategy. DMC needed clarity on its mission, value and objectives and this tied into the Risk Register as there were a number of risks around how well DMC communicates, how it is perceived etc. The tone and language of what DMC does is important, and work could start now in the lead up to its transformation. The tone around the language of ‘enforcement’ seemed unhelpful but it was noted that new language as part of the DMC’s future branding referred to DMC as ‘guardians of responsible data and marketing’ which was more helpful. EM thought a start to this may be to remove the strapline on the DMC website (‘enforcing higher industry standards’). There were no objections to this suggestion.

SD clarified the difference between the two risk registers:

* The DMC Risk Register – the DMC’s own register of risks.
* The Code Risk Monitoring Register – which reflects specific DMC operations in relation to the Code and elements of the Code – i.e. behaviour of co-signatories and issues DMC may want the Code to tackle.

The Commissioners agreed that the DMC Code Risk Monitoring Register should remain as it is for the time being, until monitoring body status, unless the ICO request that further work on it should be undertaken. SD agreed with this. After accreditation, then DMC can look at amalgamating the two registers.

In terms of the DMC Risk Register, QQ reiterated that he would like to see it consolidated to 10-12 points. Further risks (high) were identified in terms of delays to monitoring body approval such as an early election/delays at the ICO/delays to the Bill itself or Royal Assent. EM, QQ, KT and SH would meet to discuss further.

Action Points:

* SH to set up meeting with EM, QQ, KT and SH to review Risk Register
* SD/SH to prepare three phase project plan
* SD to send budget information to SH for circulation to the Board
* EM to meet with CC and to provide high level project plan alongside budget and cost implications
* To remove strapline from DMC logo

**Website Security:**

The Board discussed the importance of ensuring that the DMC website was sufficiently secure.

SH was to meet shortly with the DMA’s Marketing Director and would ensure any necessary amendments were made to the DMC’s complaints form alongside any other technical issues which may need to be addressed across the website as a whole.

EM agreed to review the DMC’s privacy policy as necessary and all agreed that full reviews of the DMC website should be undertaken on an ongoing basis.

Action Points:

* EM to review the DMC’s privacy policy.
* SH to meet with DMA’s Marketing Director to amend website form and ensure any security issues are addressed.

1. **Compliance and Monitoring Assessments (ABC): update**

Following the last Board meeting, SD, SH, representatives from ABC and Jaemie Cameron, Director of Compliance & Legal at the DMA had met to discuss next steps. ABC would make a start on some of the assessor tools, though until the GDPR Code was finalised then the assessor tools could not be completed. A clean copy of the latest draft GDPR Code had been shared with ABC (though this was without PECR and DPDI amendments in the current draft).

1. **DMC new website/business cards – update**

SH was to meet with the DMA’s Marketing Director to discuss the new website the following week.

A small quantity of business cards would be produced for QQ, RB and EM as it was agreed that they would be useful for upcoming events. It was agreed to use our current logo for the time being and QQ, RB and EM would send SH the information they required for their cards.

1. **General Updates:**
2. **DMA activities – update**

ML updated the Board on DMA activities. The TPS contract was now extended for another six months. The Home Office were launching a fraud campaign which would be referencing TPS and MPS.

1. **DMA Governance Committee**

RB was now attending these meetings as an observer. At the last meeting the Governance Committee had discussed at length the work the DMC was undertaking on the DPDI document. RB had offered his help if needed. There had also been discussion about the amendments to the DMA Code and the Committee were aware that the DMA Code would need changing again in terms of the DMC section once DMC was approved as a monitoring body. RB was unable to attend the next meeting.

1. **AI Working Groups**

SH had circulated minutes from 1st December from the AI Working Group meeting and had circulated the ASA’s presentation on AI.

1. **Commissioner benchmarking exercise**

The working party comprising QQ/GH and SH had now agreed (with Board approval) the specification and agreed for the survey to be undertaken by PayData. This had been circulated to the Board.

All agreed that there should be one Commissioner rate across both Industry and Independent Commissioners with an additional day rate of £550. It was agreed that the ‘medium quartile’ referenced in the survey report would be an applicable pay rate for each Commissioner at 10 days per annum plus reasonable expenses.

It was agreed that EM would meet with CC to discuss the proposal before the next DMA Board meeting on 21st February together with a proposed date of commencement.

1. **Data Conference – 20th March – Ham Yard Hotel**

Details of the conference had been circulated to the Board and all could attend.

1. **Any other business**

There was no other business.

**Future Board Meetings 2024 – 10.30am at the DMA offices**

**Wednesday 22nd May, DMA offices**

**Wednesday 11th September, DMA offices,**

**Tuesday 17th December, The Oriental**