



## Report on Ethics Committee Findings

**July – December 2008**

**The Committee on Ethical Business Practice heard 24 cases:**

- 14 regarding general advertising and business practices**
- 7 regarding the use of information about consumers**
- 3 regarding teleservices issues**

*In addition to the 24 in-depth cases heard by the Committee, DMA corporate and social responsibility staff handled in excess of 3,200 complaints and inquiries from consumers who needed assistance with reducing their overall volume of unwanted solicitations, having their names removed from lists of specific marketers, or with marketing transactions.*

The Committee on Ethical Business Practice announced that one company, *Orange Future (Santa Barbara, CA)* did not respond to the Committee's concerns that website advertisements for its home loan assumption program may contain misleading claims, and that consumers may not receive refunds as promised. The case was referred to law enforcement authorities for review; the company is not a member of the DMA.

*Cases reviewed by the Committee during this period were generally in the following three areas:*

**1) Allegations that promotions, offered either through the mail or online, were misleading or deceptive:**

- lack of clarity in advertising, as to the promotion's sponsor and/or intent of the contact;
- questionable use of the term "free;"
- sweepstakes that did not appear to have a "no purchase" option

Most of these cases were successfully resolved by the contacted companies' revising or discontinuing the questioned promotions. (Two were not viewed by the Committee as violating the ethics guidelines, and several were pending further action at the time of this report.)

The Committee observed the following promotional trends over this time period:

- An increase in *mortgage-related services*, for instance, loan assumption programs or opportunities to purchase foreclosed homes; and
- A similar spike in *vehicle warranty programs*.

Along with the rising tide of foreclosures comes an increase of “fixes,” many of which may further harm consumers looking for relief. The Committee reviewed several complaints from consumers claiming they paid a certain fee (usually \$199) for information on re-financing or assuming loans on homes about to be foreclosed. The programs did not deliver as promised and consumers were unable to receive promised refunds.

Vehicle warranty promotions, targeted to consumers via all media, seem also to have proliferated in the poor economy. Consumers who complained to DMA noted that they were not likely customers since they did not own a vehicle, or their current manufacturer’s warranty was not imminently expiring as claimed by the marketer, or that the companies did not remove their names from contact lists as requested.

DMA’s ethics guidelines state that all offers should be clear, honest, and complete so that the consumer knows the exact nature of what is being offered, and that material terms and conditions should always be clearly and conspicuously disclosed. The Committee wants to reinforce with its members and others in the direct marketing community that *all marketing contacts should also disclose the name of the sponsor and each purpose of the contact*. Although it seems obvious, several of the Committee’s cases concerned promotions with a lack of clarity.

**2) Cases concerning how marketing data are used. The Committee reviewed seven cases in which organizations allegedly did not comply with DMA guidelines:**

- to provide notice to customers/donors of their policies concerning transferring names to others; and/or
- to honor consumer requests for name removal from marketing lists

The majority of companies contacted provided adequate information to the Committee regarding the policies and procedures that they have in place for providing notice about the transfer of information to others for marketing purposes, and affirmed that their policy is to honor all name-removal requests.

The Committee also reviewed the website of a service that offers to remove consumers’ names from mailing lists. After discussion with the company, it was agreed that revisions would be made to the website to satisfy the Committee’s concerns related to effectiveness claims.

Since cases regarding the use of marketing data are a regular part of its ongoing work, the Committee wishes to remind members – and consumer educators and policymakers – of recent enhancements to DMA’s Mail Preference Service (in existence since 1971), now

known as **DMAchoice** (at DMA's consumer website: [www.DMAchoice.org](http://www.DMAchoice.org)). DMAchoice.org includes DMA's other preference services (e.g., eMail Preference Service, Deceased Do Not Contact, and Do Not Contact for Caregivers), and also provides important information for consumers on several subjects including prevention of ID theft, sweepstakes advertising, and rights when ordering by mail, telephone, and online.

As most DMA members are aware, the purpose of DMAchoice is to support consumer preferences across all marketing channels. DMAchoice is a key component of DMA's self-regulatory initiatives, and is part of our overall strategy against threats to direct mail. Other self-regulatory efforts include the *Commitment to Consumer Choice (CCC)* and *Mail Moves America (MMA)*.

DMAchoice offers consumers a simple step-by-step process that enables them to decide what mail they do and do not want. It provides categorical opt outs (for prospect mail), instead of grouping all categories into one universal opt out. There are currently four *categorical* opt-out options: 1) pre-screened credit offers (referred directly to the credit bureaus' opt-out service), 2) catalogs, 3) magazines, and 4) all other direct mail (including nonprofits).

DMA believes that no entity should come between consumers and direct marketing companies and organizations, and that is why – for the first time – DMAchoice offers a conduit for consumers through members' own websites, toll-free numbers and mail. That way, organizations can address individual preference requests directly. DMAchoice is free to online users; alternatively, consumers can register by mail for a nominal \$1 processing fee. DMA uses consumers' information *only* to honor their consumer preferences.

### **3) The three cases regarding teleservices issues involved:**

- the lack of Caller ID information;
- faxing promotional messages without permission;
- messages left on a consumer's cell phone, without the consumer's permission to receive such messages.

The case regarding unsolicited faxes was resolved; the other matters were closed because the identities of the companies could not be confirmed.

The Committee may see an increase in unethical or illegal marketing to consumers' cell phones as more marketers enter this relatively new arena. DMA's current guidelines state that a marketer should not knowingly place a call or send a voice or text message to a wireless telephone number for which the called party must pay the charge (except where the number was provided to the marketer for that purpose). DMA's Ethics Policy Committee has begun review of mobile marketing with an eye toward expanding the guidelines and providing compliance guidance to members.

DMA handles ethics complaints about member and non-member marketers, comparing marketers' practices to the DMA's ethics guidelines in an effort to bring companies into compliance. Members who do not comply with the requests of the Committee face DMA Board public censure, suspension, or expulsion. Organizations that do not cooperate are referred to law enforcement agencies, and their cases may be publicized.

***Resources include the following:***

- DMA's *Guidelines for Ethical Business Practice*:  
[www.dmaresponsibility.org/Guidelines/](http://www.dmaresponsibility.org/Guidelines/)
- *Do the Right Thing* explanatory guide that accompanies the Guidelines:  
<http://www.dmaresponsibility.org/DoTheRightThing/>
- Report on Ethics Committee findings are archived at:  
<http://www.dmaresponsibility.org/CaseReport/> and further information about DMA's ethics committees is at:  
<http://www.dmaresponsibility.org/Committee/>
- DMA's consumer site, offering name-removal and modification options, is at  
[www.DMAchoice.org](http://www.DMAchoice.org)
- To file a complaint with the Committee on Ethical Business Practice, write to:  
[ethics@the-dma.org](mailto:ethics@the-dma.org), or use the online form at:  
<http://www.dmaresponsibility.org/ComplaintForm/>