



Report on Actions of the DMA's Ethics Committees

April - July 2006

The Committee on Ethical Business Practice reported that one company failed to respond to the Committee's inquiry during this period. *Get It Free.net* offered a free \$50 gift certificate to consumers who referred friends to its Web-based program. The Committee believed the company's initial e-mail did not adequately disclose the marketer's identity. It also requested additional information concerning any qualifications or conditions accompanying the "free" gift card, as conditions were not referenced in the initial e-mail. The company did not respond to the Committee's questions and concerns, and the matter was referred to the Federal Trade Commission for its review. *Get It Free.net* is not a DMA member. Since this report was issued, the company has advised its willingness to cooperate with the Committee and make appropriate changes.

32 cases heard by the Ethics Committees:

- 16 – general advertising (both off and online promotions and practices), half of which concerned mortgage-related loan offers
- 7 – telemarketing practices
- 9 – collection, use and maintenance of marketing data

The Committee on Ethical Business Practice reported two primary issues of concern during this period:

- 1) An unprecedented number of mortgage loan offers was reviewed, most of which used design elements that made the offers appear as though they were from recipients' actual mortgage holders or from government agencies when they were not.

Such design elements include, for example:

- the use of window envelopes with the consumer's current mortgage holder visible through the window
- statements that the consumer's mortgage rate is increasing, when that may or may not be true
- prominent (but false) account numbers and other such indicia
- non-negotiable checks that appear to be refunds for mortgage overpayments
- improper usage of government logos

- warning notices that the recipient must respond immediately or risk loss of a mortgage rate

The purpose of the mortgage loan offerings, like any direct marketing promotion, is to encourage the recipient to open the outer envelope, continue reading the inner promotion, and take action to become a customer. Consumers should not, however, be fooled into opening mailings under various guises, such as looking like they are from a government agency. Likewise, consumers should not be misled into thinking a promotion is from their existing mortgage holder when it is not.

Mortgage-related information may be readily available to marketers, but should be used sensitively and with care not to offend recipients. Consumers are often upset and believe their privacy is violated when they receive mailings, for instance, containing outstanding loan balances and the names of their current mortgage holders.

2) The Committee handled several cases concerning failure to honor consumer requests not to receive mail, including customer requests not to have their names transferred to others for marketing purposes.

Making sure consumers' requests not to receive promotional mail are honored is essential to building consumer trust, and is a requirement of DMA members. According to DMA's *Guidelines for Ethical Business Practice* and its *Privacy Promise*, direct marketers should abide by the following privacy protection practices:

- Provide customers with notice (at least annually) of their ability to opt out of information exchanges. (For online marketing, notice should be provided to both the marketer's existing customers and prospective customers in each solicitation.)
- Honor customer opt-out requests not to have their contact information transferred to others for marketing purposes.
- Accept and maintain consumer requests from prospective customers to stop receiving solicitations from the marketer itself.
- Marketers should use DMA's Preference Service suppression files on all prospect lists.

In addition, direct marketers should disclose the source from which they obtained information about consumers, upon consumer request. The Committee has found that many companies do not adequately train their customer service representatives to answer questions about list source. Many erroneously respond that DMA was their list source, or assert that they cannot tell them where they got their name. Consumer trust can be enhanced by accurately answering such "how did you get my name" questions.

In addition to the two above-discussed issues, other cases included offers in which clarity was lacking.

Specifically, the Committee viewed some marketers as hiding important facts consumers need to consider before acceptance of their offers.

- “Free” offers should not have excessive obligations that are difficult for consumers to fulfill.
- Disclosures explaining details of such offers must be easy to find, read, understand, and act upon.

The cases reviewed by DMA’s Teleservices Ethics Committee concerned the following main issues:

- Sending text messages or making telephone calls to mobile phones without consumer consent
- Allegations of compiling a database for cell phone usage
- Questioning whether consumers’ permission to contact was obtained for cell phone contacts

Marketers should note that it is illegal to send text messages or place calls to cell phones without affirmative consent from consumers. Such actions may inhibit the ability of legitimate services to contact cell phone users.

DMA handles ethics complaints about member and non-member marketers, comparing marketers’ practices to the DMA’s ethics guidelines and asking them to come into compliance. Members who don’t comply with the requests of the Committees face DMA Board public censure, suspension, or expulsion. Non-members that don’t cooperate are referred to law enforcement agencies, if applicable, and their cases are publicized.

In addition to the 32 in-depth case reviews, DMA ethics and consumer affairs staff handled 720 complaints and inquiries from consumers who needed assistance with: reducing their overall volume of unwanted mail, telephone calls and e-mail; having their names removed from lists of specific marketers; or with marketing transactions. Forty member companies, randomly selected, were asked to certify their continued compliance with DMA’s Privacy Promise.

Resources for direct marketers include the following:

- DMA’s *Guidelines for Ethical Business Practice*: www.the-dma.org/guidelines/ethicalguidelines.shtml
- The *Privacy Promise Member Compliance Guide*: www.the-dma.org/privacy/privacypromise.shtml
- Ethics Case Reports are archived at: www.the-dma.org/guidelines/ethicscase.shtml, and further information about DMA’s Ethics Committees is at: www.the-dma.org/guidelines/ethicalbusinesscommittee.shtml.
- To file a complaint with the Ethics Committees, write to: ethics@the-dma.org, or use the online form at: www.the-dma.org/guidelines/EthicsComplaintForm.pdf.