



Report on Actions of the DMA's Ethics Committees

Updated Report Released January 19, 2006

July – November 2005

20 cases heard by the Ethics Committees:

- 6 – general advertising, including off and online promotions & practices
- 6 – telemarketing practices
- 8 – collection, use and maintenance of marketing data

The Committee on Ethical Business Practice, in an earlier report, noted that three companies (non-DMA members), failed to cooperate with the Committee toward reaching appropriate complaint resolutions. *Intelius of Bellevue, Washington*, an online reference (or look-up) service used to locate individuals, earlier had failed to confirm that sources of information for the reference service do not include marketing data, and whether and how consumers can remove their names from the service. Since the time this report was first released, however, Intelius, a DMA member, confirmed that marketing data are not used in its reference service, and provided information as to how consumers can remove their names. *Incentive Reward Center of Delray Beach, FL* (now known as *Consumer Incentive Promotions*) initially responded to the Committee, but did not cooperate with the Committee in further explaining its online offer for free merchandise. *SND Marketing Listing Service of Spring, TX, which was also referred to the Federal Communications Commission* for further review, did not respond to the Committee's concerns about its solicitation allegedly appearing in the guise of an invoice and faxing its promotion, contrary to federal law.

Primary Case Issues of Concern Based on Current Case Load:

1) Marketing information should not be used in individual look-up or reference services:

- Online reference services should not include information relating to consumers' marketing transactions. Consumers would not reasonably expect that information about what they purchased, or how they responded in a marketing survey, would result in their inclusion in an online look-up service.

2) “Teaser” copy on the outside of an envelope can be enticing and creative, but should not cross the line into deceiving a consumer about the nature of the promotion:

- Marketers should not imply that their mailing is from the company with which a consumer currently does business, for instance, the consumer's credit account or mortgage holder, if that is not the fact.

3) Online or offline, the overall impression made by a promotion should not contradict individual disclosures made within the promotion, or disguise important facts the consumer needs to consider:

- Gifts or “free” offers should not come with obligations that are difficult for consumers to fulfill.
- Disclosures explaining details of such offers must be easy to find, read, understand, and act upon.
- Marketing offers for goods or services should not appear to be bills.
- Marketing offers should not be sent via fax when there is no prior business relationship or consent has not been given.

4) Shipping and handling costs should be not be excessive:

- They should bear a reasonable relationship to actual costs incurred, according to DMA's guidelines.
- Marketers should be able to substantiate their shipping and handling charges.

5) Direct marketers should disclose the source from which they obtained information about consumers upon a consumer's request:

- Marketers should tell consumers the source of their name on a specific list, or, if not possible, the kinds of sources used. Treating such information secretively does not serve to enhance consumer trust.

6) Telephone marketers should clearly explain the reason for their call and should not use high pressure tactics:

- Marketers should be aware that some states have “no rebuttal” laws, meaning that callers cannot continue their conversations once call recipients say they are not interested.

In addition to the 20 in-depth case reviews, DMA ethics and consumer affairs staff handled 1,023 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.

- DMA's Guidelines for Ethical Business Practice can be found at www.the-dma.org/guidelines/ethicalguidelines.shtml.
- Further information about DMA's Ethics Committees is available at www.the-dma.org/guidelines/ethicalbusinesscommittee.shtml. 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 referral to law enforcement agencies, where appropriate, as well as 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.
- To file a complaint with the Ethics Committees, write to ethics@the-dma.org, use the online form at www.the-dma.org/guidelines/EthicsComplaintForm.pdf.