

DMA ANNUAL ETHICS COMPLIANCE REPORT

2016



DMA's Annual Ethics Compliance Report covers the consumer affairs, industry self-regulation and casework conducted by DMA's Accountability Department from January 2015 through January 2016



Dear DMA members, policymakers, the media, consumers and the entire marketing ecosystem -

On behalf of DMA, I am pleased to present the 2016 DMA Annual Ethics Compliance Report. This comprehensive reporting of DMA's robust self-regulatory program demonstrates DMA's leadership and enforcement of its *Guidelines for Ethical Business Practices*.

For more than 60 years, DMA has led the data and marketing industry's self-regulatory program. The effectiveness of this self-regulatory program is vital to consumer interests, as government legislative bodies are not positioned to keep up with the marketing industry's accelerating speed of change. Since DMA members are initiating those innovative and disruptive changes, DMA is in a much better position to nimbly keep pace and administer self-regulation.

Moreover, as DMA is uniquely positioned among trade associations in that we represent the entire ecosystem of our industry, we have a much broader purview than other associations and a more comprehensive perspective from which to lead, administer and enforce industry self-regulation.

DMA's ethical standards and guidelines are applied industry-wide and are driven by both consumer and company inquiries. DMA also maintains a Consumer Preference Service which enables individual consumers to limit and filter the offers that they receive from marketing and fundraising organizations. And, DMA serves as an enforcement mechanism for the Digital Advertising Alliance (DAA), providing consumers with ad choices for opting out of digital advertising and ensuring compliance.

During the past five years alone, DMA processed over 45,000 consumer complaints that included assisting and educating consumers, informing marketers about DMA requirements, and pursuing bad actors within our industry. Demonstrating that our self-regulatory program is rigorously enforced, DMA has removed companies from our membership roster and reported them to law enforcement. Additionally, in this report, six companies are called out for ongoing non-compliance. In most cases, however, DMA's enforcement and education efforts are effective in bringing marketers into compliance.

Recognizing the pace of industry innovation in technologies and techniques, DMA is already at work leading a major initiative to update our data guidelines within DMA's self-regulatory principles. This latest update of DMA's data standards – the DMA Data Standards 2.0 Initiative – will reflect current innovations in the marketplace in terms of technological advancements and uses of data that balance consumer needs and protections. In a comprehensive fashion, Data Standards 2.0 will tackle new high profile and emergent data issues, such as “on-boarding” of offline data online; use of television viewing data; information service provider transparency; and more.

I invite you to stay tuned to this important DMA initiative as we continue to lead the marketing industry's self-regulation program.

With best regards,

A handwritten signature in black ink, appearing to read "Thomas J. Benton". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Thomas J. Benton
CEO, DMA



The data-driven marketing economy is expanding in size and scope, fueling nearly 1 million jobs and generating \$202 billion in revenue for the U.S. economy in 2014 while growing at nearly 4x the rate of the overall economy. (See “*The Value of Data 2015: Consequences for Insight, Innovation & Efficiency in the U.S. Economy*”: <http://thedma.org/VoD>) As opportunities abound in this transformative Age of Data, marketers are securing this strong economic growth by developing and enforcing a self-regulatory system that goes after potential bad actors and ensures transparency and choice for consumers.

As the leading association encouraging and promoting responsible data-driven marketing, DMA has led and administered a self-regulatory program for over 60 years. The purposes of DMA's self-regulatory program are bold: to ensure consumer concerns are addressed expeditiously; to protect the marketing industry from unreasonable regulation via a strong self-regulatory program; and to provide standards for members and those their business partners. Throughout DMA's 60 years of self-regulatory leadership, DMA has focused on both the traditional and emerging data excellence issues of every era.

This annual report summarizes the ongoing consumer affairs, investigative and casework of DMA's Accountability Department spanning January 2015 through January 2016. DMA's Accountability Department supports DMA's Ethics Operating Committee, which handles complaints against member and non-member companies regarding unethical business marketing practices.

DMA considers self-regulation to be a key component of its mission to build consumer trust for responsible data and to be accountable for data-driven marketing. This report summarizes the past year's work, including DMA consumer complaint management, key compliance issues and tips, DMA Board-overseen committee work, and the listing of non-compliant companies for public review. Given the vital importance of industry self-regulation, DMA distributes this report widely and we encourage our members to review the report and stay current on DMA's Ethical Guidelines.

As set forth in the chart on this page, during this past compliance period, DMA received 11,300 consumer

COMPLIANCE SNAPSHOT 2015-2016

Consumer Inquiries	11,300
Companies in Compliance	90%*
Digital Ad Inquiries	540
Committee Meetings	6
Cases Reviewed	37
Cases Resolved	31
Non-Compliant Companies Listed	6

*Opportunity to correct in 30 days

marketing inquiries. Out of these consumer contacts, the DMA found that 90% of companies were compliant. For the approximately 10% of the companies that were potentially out of compliance, DMA sought corrective action within 30 days. Thirty-seven instances were directly referred to the DMA Ethics Committee for further action.

2015-2016 CASEWORK KEY FINDINGS

Here are case highlights for this past reporting period:

- Consumers' number one concern - regardless of the marketing channel - remains ensuring their ad choices and marketing preferences are honored by companies marketing to them and organizations seeking donations.
- B2B email campaign complaints rose slightly year-over-year due to client concerns with results of campaigns.
- Additional concerns from consumers included the relevancy of the marketing offers in the digital ads they are viewing and complaints regarding ads on their desktops (81% this reporting period, up from 75% in 2013-2014). Meanwhile, complaints regarding mobile-viewed ads increased slightly 8%, up from 6% in 2013-2014 reporting period.
- Past "bad activity" reviewed by the DMA Ethics Committee occurring again in this reporting cycle included: fake sweepstakes seeking payment; car warranty offers masked as urgent invoices or government warnings; car dealer contest offerings that potentially confuse and mislead consumers into believing they won; and robo-calls with vacation offers.

EMERGING DIGITAL DATA ISSUES

1. **Dynamic Pricing** – It can be hard for companies to keep track of their pricing and this results in issues with consumers having certain prices honored. One company updated their online pricing seven times a day. As a result, a consumer could not receive the price because the company could not track down her offer and she didn't save it.
2. **Promotional Pricing Remaining in Ads in Search Engines** – Companies should ensure that promotional pricing is removed from online search when the promotional time period expires. One company did not want to honor a consumer's request to meet the "quoted online ad price." The company did end up offering the consumer a refund.
3. **Ad Templates** – Ads which pull from different areas such as a consumer's browsing history and current sales promotion could lead to an image not representing the actual sale. This practice could be potentially deceptive to the consumer. In one instance, a consumer was shopping online for shoes. She received an ad template which included a picture of the shoe she was interested in but the sale was actually for pants.
4. **Consumers Retargeted With Their Own Posts** - Consumers wrote in with concerns about an item that they posted online was then retargeted to them – such as a sale of their own printer or collectible item.

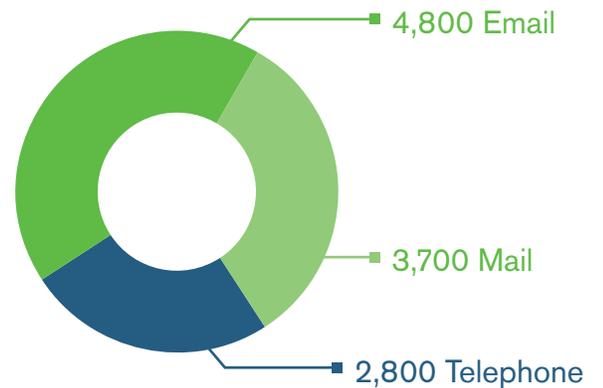


During this compliance report review period (2015- 2016), DMA's consumer affairs department processed over 11,300 consumer and company inquiries regarding marketing practices via mail, phone and email. This comprises over 4,800 inquiries via email; 3,700 inquiries via telephone calls; and 2,800 inquiries via postal mail.

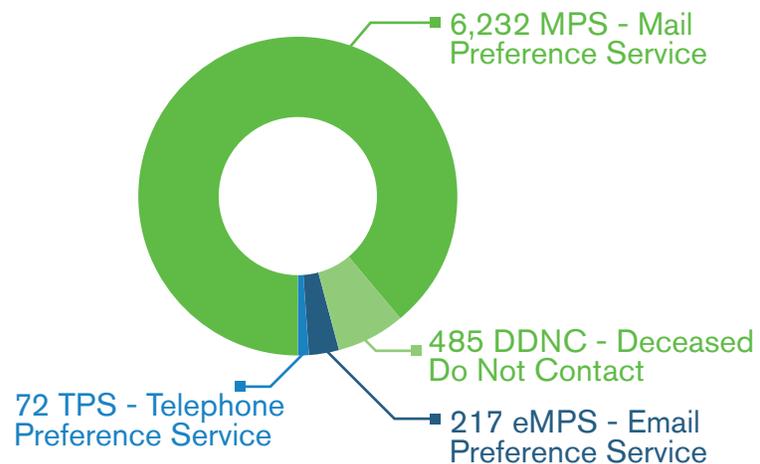
During this time period, consumers' top requests involved requesting assistance in managing their data marketing preferences through our DMACHoice preference services. Over 7,000 inquiries were processed seeking these preference services. The top channel with which consumers needed assistance was mail preference, and specifically seeking name removal from future offers.

Of the 11,300 consumer inquiries received, approximately 10% involved companies potentially out of compliance with DMA standards. The chart on the following page identifies the types of individual consumer complaints received by DMA's consumer affairs department during the review period. The top area of concern for consumers remains requesting additional help in name removal off a specific company's email or mail list.

CONSUMER & BUSINESS ETHICAL INQUIRIES RECEIVED BY CHANNEL



DMACHOICE INQUIRIES



2015 - 2016 CONSUMER COMPLAINTS REVIEW FOR MARKETERS

Customer Service/Product Support Issues –

Consumers wrote in with the following customer service issues that DMA worked to resolve:

- Exchange/refund/warranty policy
- Product wasn't delivered or they reported defective merchandise
- Received product that consumer didn't order
- Cancelling a subscription or order, and/or
- Lack of customer service

DMA members are expected to adhere to DMA member principles, including ensuring that customer service excellence is a standard across their brands and those working on their behalf.

Deceptive Marketing & Advertising Practices – Consumers contacted DMA with concerns about the clarity, honesty and terms and conditions of an offer. It is important to clearly state what the offer is and to clearly identify the organization/company making the offer. Companies should offer a valid and easy way for consumers to contact them regarding their marketing preferences or with questions about the offer. Some of the companies did not provide clear company contact information. There were a number of warranty companies that created a false sense of urgency in their offer adding to potential belief that the offer was either an invoice or other time-sensitive material, leading to mistrust with the consumer.

Email Removal/SPAM – During this reporting period, DMA continued to receive consumer complaints involving problems unsubscribing from B2C emails as well as B2B emails. DMA provided guidance to consumers on the requirements of CAN-SPAM in which unsubscribe requests should be processed within ten business days, and how to file a complaint directly with the FTC: <http://www.consumer.ftc.gov/articles/0038-spam>. Additionally, due to changes in Canadian law, DMA and its email marketing arm, the Email Experience Council, issued “*A Digital Marketer's Guide to Canada's Anti-Spam Law (CASL)*” to ensure that DMA members can remain current and compliant with marketing requirements in Canada. (This Guide can be found here; http://thedma.org/wp-content/uploads/CASL_guidance.pdf)

Mail Removal – As indicated in the chart above, the highest volume of inquiries DMA received were from consumers who wanted assistance in being removed from a specific company's mailing list or catalog. Many consumers indicated that they tried initially to contact the company directly with their request but their request was not honored. Some of the requests were on behalf of family members who were trying to have deceased family members removed from mailings. This type of inquiry has historically remained the top concern for all consumers contacting DMA. DMA asks its members and all data-driven marketers in the industry to make readily and easily available methods for consumers to contact their organization and to ensure that consumers' marketing preferences are honored. Marketers must honor choice and also provide to the consumer the source of their contact information in a timely and efficient manner upon request.



“No Ads” At All – There is a small contingent of consumers who did not wish to receive any promotional offers – regardless of the marketing medium used. They do not want to receive promotional emails, online ads, telemarketing calls or catalogues or direct mail offers. This group of consumers is vigilant and protective about the type of information they receive. DMA asks all marketers to respect and honor all consumers’ marketing preferences to the best of their ability.

“Pass-The-Buck” and DMAChoice – Oftentimes, a consumer will contact a company directly to ask that their name and address be removed from the company’s mailing lists, and the company will refer the consumer to DMA instead of processing their request. This is referred to as “Pass-The-Buck”. Under DMA Guidelines, companies are required to maintain their own in-house suppression file. It is not appropriate to refer consumers **only** to the DMA when the consumer actually wants to be removed from a specific company’s mailing list.

When companies refer the consumer to DMA, the consumer then mistakenly believes that DMA is the source of consumer names. The request is ineffective since the company will continue mailing to that consumer unless the company takes the steps needed to remove the name from their own internal lists as well as their outside lists. It is only appropriate to refer consumers to www.DMAChoice.org when the consumer is interested in managing their marketing preferences for multiple companies, not just the list of the organization they have contacted.. All marketers must use an internal suppression list for their own organization. DMAChoice should be used to complement, not in lieu of, an internal suppression file. DMA recommends that front-line customer service representatives be trained on how to properly handle such consumer name removal requests.

Further, DMA members are required to subscribe to our services, *and we encourage all marketers to subscribe.* (More information on DMAChoice can be found on DMA’s website.) DMAChoice covers promotional mailings to *prospective* consumers, not current customers. Customers who wish to be removed from company-specific lists should contact the company directly with their requests; DMA assists consumers directly if that is not successful.

Sensitive Name Removal Requests – Occasionally consumers will contact DMA for assistance in having a deceased family member removed from a specific organization’s mailing. These are the most sensitive requests and should be handled in a timely and respectful manner. DMA does offer a name removal service to assist consumers and companies in these situations, the Deceased Do Not Contact list: <https://www.ims-dm.com/mvc/page/deceased-lists>. DMA requires its members and encourages all marketers to subscribe to this suppression file and also asks that companies maintain an internal suppression file.

Sweepstakes – A number of consumers contacted DMA with concerns about potentially fraudulent sweepstakes offers. The Deceptive Mail Prevention and Enforcement Act governs sweepstake promotional mailings. This federal law requires mailings to clearly state that no purchase is necessary to enter a contest and that a purchase does not improve the chances of winning, among other rules and requirements. Therefore, any legitimate organization running a lottery or prize promotion would never ask consumers to submit a payment to receive their prize or award. Companies also are not permitted to send promotional mailings that appear to be coming from the government such as displaying a government logo or seal.



BACKGROUND

During this compliance period, DMA continued in its role to serve as one of the enforcement bodies for the Digital Advertising Alliance (DAA) to provide online marketing accountability for businesses and consumers.

DAA offers consumers an opt-out system for online ads that are served based on a consumer's browsing history (IBA) via <http://youradchoices.com/>. The Advertising Option Icon (on page 9) appears on Internet-Based Advertising (IBA), or online ads. DMA works with consumers who have complaints about online ad practices and may wish to opt-out of such advertising. DMA's actions in this area are responsive to the Federal Trade Commission's (FTC) call for a strong and effective self-regulatory program for online marketing that is targeted.

In online marketing, there are generally two types of ads:

General Online Ads – Most online ads are not matched to consumers as individuals but to data categories -- such as demographics, interest groups, or a general geographic location such as a state. This type of advertising seeks to provide the right products to the right audience, and makes possible low or no cost content and services through data-driven marketing. DMA works with consumers to ensure they know that general ads are not specifically targeted to them.

Interest-Based Online Ads – Interest-based advertising – sometimes called “online behavioral advertising” – is different. It uses information collected across multiple websites that people visit in order to predict preferences and to show ads that are most likely to be of interest. Many companies engaged in IBA will indicate their adherence to ethical best practices for IBA by providing an Advertising Icon, labeled “Ad Choices” to indicate their participation in the self-regulatory program. By using the “Ad Choices” icon, these companies are signaling their commitment to be responsive to consumers' concerns and choice requests as a result.

Through its consumer affairs work, DMA has observed that the majority of consumer complaints filed through the IBA process focused on content (i.e., dating service/adult-themed, blocking online content, does not reflect their interests) or placement of the ad (covers news/email). The IBA opt-out process will assist consumers in being removed from online ads that are served based on their browsing history. It is important to note that the opt-out pro-

cess that DAA developed provides consumer's a way to opt-out of such ads; however, it does not affect the content or placement of the ads themselves as that is beyond the scope of the "Ad Choices" program.

AD CHOICES ICON



Consumers can file a complaint with DMA if they believe that a practice or ad may have violated the Self-Regulatory Principles for Interest-Based Advertising: <http://goo.gl/fmVLoS>.

The participants in the self-regulatory program are required to abide by a set of Principles based on:

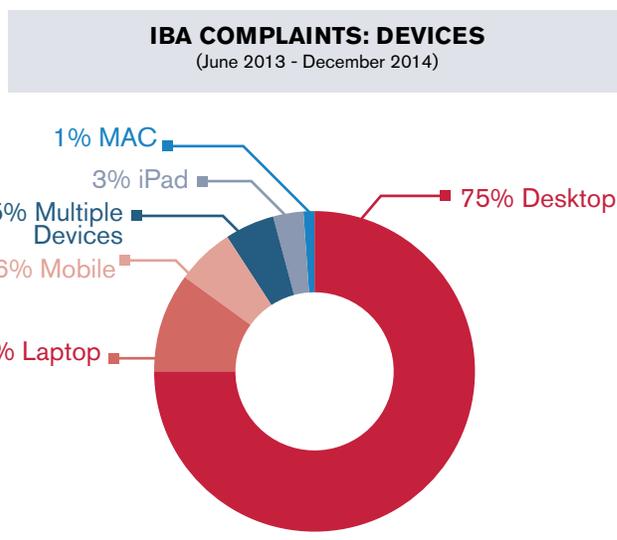
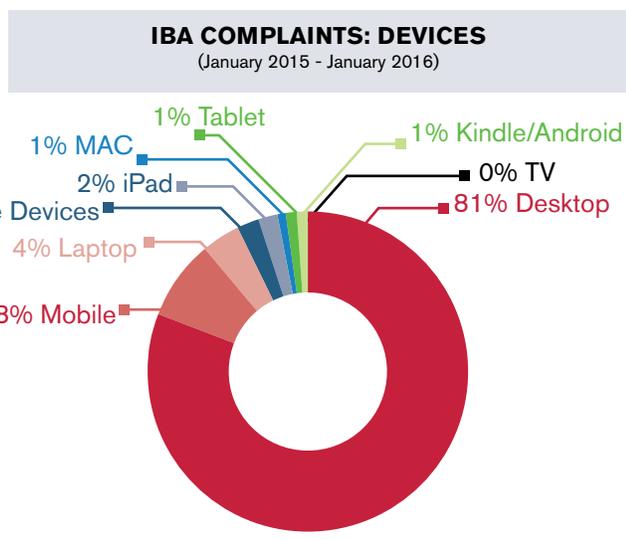
- **Transparency:** a clear and robust privacy policy that is specific to OBA, and enhanced notice provisions for third parties who are serving the ads.
- **Consumer Choice:** consumers have control and opt-out ability over whether data is collected and used or transferred to third parties for OBA purposes.
- **Consumer Consent:** the consumer's consent must be provided before a material change is made to practices regarding OBA data collection and use policies, limiting the collection of sensitive data.

To learn more about DAA Principles, companies should go to www.aboutads.info.

2015-2016 REPORTING PERIOD ANALYSIS

DMA reviewed over 540 inquiries through its IBA complaint process during this reporting period. The vast majority of consumers continue to seek assistance in opting-out of IBAs that are viewed on their desktop computers. The charts below capture the devices for which consumers were seeking assistance in removal of IBAs.

The chart on the left covers inquiries received during this reporting period and the chart on the right covers inquiries from the previous reporting period. The proliferation of technology used by consumers is reflected here year over year. The data also reflects the growing use of mobile devices as there was an uptick in consumer complaints for ads on mobile devices in 2015.



MOBILE/CROSS-APP COMPLIANCE

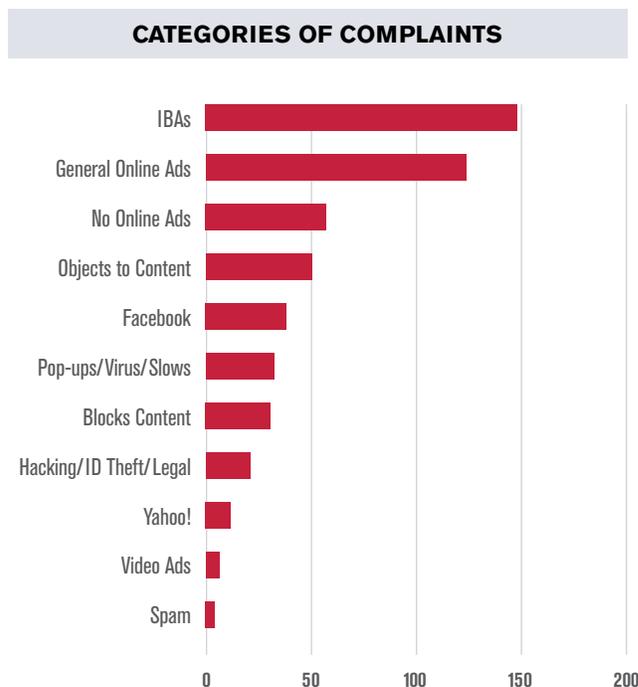
Over the current reporting period, DAA developed additional tools to assist consumers in opting-out of IBAs. For example, DAA developed an opt-out app that allows consumers to control the types of IBAs they view on their mobile devices and across sites and apps. Effective September 1, 2015, companies that collect and use data across sites or apps for interest-based advertising are required to comply with *DAA's Principles in the mobile environment (i.e. DAA Mobile Guidance)*. These principles apply to precise location data, personal directory data and cross-app data, and build upon the effective *self-regulation program led by DMA* for over six decades.

Key to the DAA's Mobile Guidance are the *mobile choice opt-out page* and DAA's mobile app (available on the *Apple Store, Google Play, and Amazon's Appstore*). These are the consumer-facing tools for the mobile guidance, providing the transparency and choice that comes with industry self-regulation.

At DMA, we both develop principles through our work with DAA and ensure their enforcement. Key to this enforcement is a collaborative partnership with marketers that ensures they are educated and following best practices.

TYPES OF COMPLAINTS RECEIVED

The chart on this page represents consumer complaints from January 2015 – January 2016. During this time period, DMA received 544 complaints through the IBA complaint process. The top areas of concern for consumers during their online experience were: questions about how to opt-out of online ads (either IBA, general or all), dating or “indecent” ads, ads blocking content, ads not targeted correctly, and how to remove ads in Facebook and Yahoo!



IBAs

Consumers contacted DMA with the following concerns:

- Opt-out process was too complicated
- One IBA company process didn't work
- A few opt-outs did not work (most did)
- System-wide failure: none of the opt-outs worked (note: slow Internet speed can affect the opt-out download process).

As a result, DMA provided tips to consumers on how to download the IBA opt-out plug-in (<http://www.aboutads.info/PMC>) or retain cookie history so the opt-out cookie would not be deleted. DMA also explained that certain anti-virus software and scripting issues can interfere with the opt-out process. Some IBA companies did have technical issues that were fixed once they were alerted.

GENERAL ADS

Consumers contacted DMA with the following concerns:

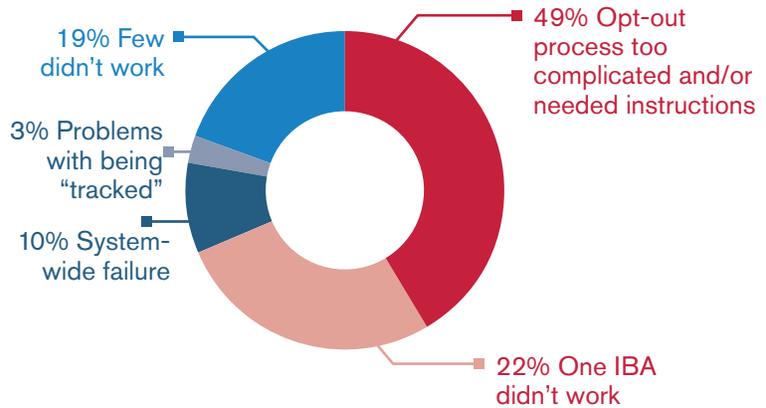
- Technical questions about the opt-out process
- No online ads; favors opt-in approach
- Needed clarification between general & IBA ads
- Wanted to opt-out of company-specific ads (not IBA)
- Ads slow down computer
- Problems with pop-ups or “spam” ads
- Questions about hacking/ID Theft and legal concerns

CONTENT OF ADS

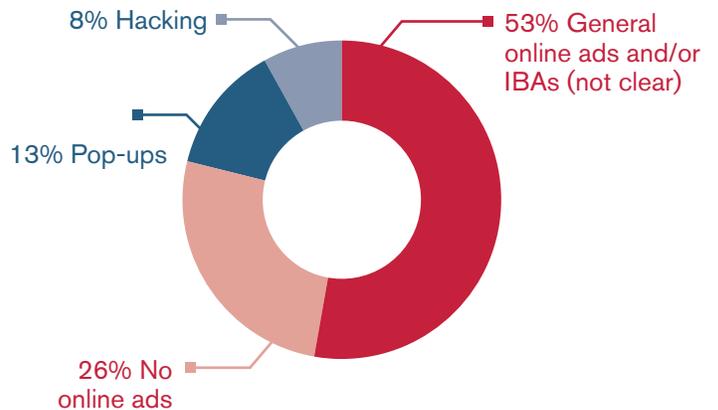
Consumers contacted DMA with the following concerns:

- Dating – doesn’t want spouse/children to think they’re dating; goes against their religious upbringing
- Adult-themed/too racy – concerns regarding sexual or otherwise inappropriate ads
- Political
- Other: wrong language/weight ads/ drunk-driving ads served to consumer sober for 27 years/disgusting worms/ sick & injured animals
- Problems opting out of video, flashing or sound ads
- Ads block news, email

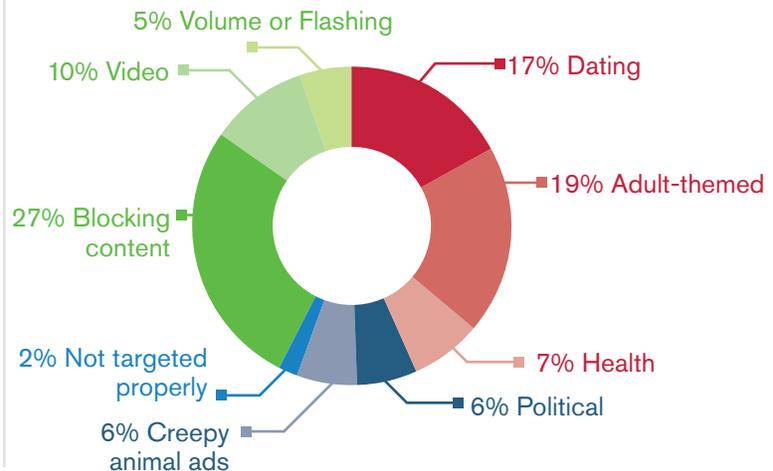
IBA CATEGORIES OF COMPLAINTS



GENERAL ONLINE ADS CATEGORIES OF COMPLAINTS



CONTENT OF ONLINE ADS





This section provides a public reporting of companies in noncompliance with DMA's Guidelines and a summary of the DMA Ethics Operating Committee casework based on DMA's self-regulatory function for the marketing industry.

DMA provides standards of practice for marketing and fundraising that all members should follow as a condition of membership. The DMA Guidelines referenced in the case reporting are located at <http://thedma.org/wp-content/uploads/DMA-Guidelines-2016.pdf>.

By way of background, the Committee reviews and investigates organizations for potential ethical issues that are involved in complaints regarding marketing practices. Organizations' marketing practices are reviewed under DMA's Guidelines for Ethical Business Practices, and some cases also involve potential legal concerns. (See <http://thedma.org/wp-content/uploads/DMA-Guidelines-2016.pdf>)

Members that do not comply with the Committee's requests for information face DMA censure, membership suspension or expulsion from DMA. Organizations (regardless of membership status) that do not cooperate and that may also reflect potentially illegal activity are referred to the appropriate law enforcement agency.

DMA's Ethics Operating Committee meets approximately every six to eight weeks to review potential cases and to make its recommendations on appropriate actions. Companies found not in compliance and not taking corrective action are listed publicly at <http://thedma.org/accountability/ethics-and-compliance/>.

COMMITTEE CASEWORK TRENDS & ISSUES

This section includes a general summary of the casework and issues that were raised during Committee proceedings and were resolved without a public disclosure of the companies. The work involved: 13 closed cases, 11 pending cases, 2 tabled cases and 1 dismissed case, (totaling 27 cases under review.)

GENERAL SUMMARY

Offering Consumer Choice to Reduce Unwanted Mail – Unwanted mail remains a top concern for consumers. Companies were generally cooperative with Committee requests that the company remove a consumer's name from its mailing lists and place the consumer name on a suppression file. The Committee and DMA compliance staff found responsive compliance during this time period from both members and nonmembers.

Upon further communication from the Committee, most companies reviewed their internal policies to ensure they were using the correct name removal process for their own mailings. The Committee's inquiry prompted companies to review their name removal process including their standard procedure for typical and sensitive name removal requests and what steps they take to improve training and education for front-line customer service representatives.

DMA received two repeat complaints from consumers who claimed that the mailings had resumed. One case has been resolved and one was pending at the time of this report's completion.

Applicable DMA Guideline:

- Article #6 Decency, Article #9 Accessibility, and Article #31 Collection, Use and Transfer of PII.

Marketers should heed the following tips:

- Extra sensitivity and urgency should be used in processing name removal requests for deceased or elderly family members.
- DMAChoice should only be used for suppression purposes – marketers should take extra caution in ensuring they are flagging this list as a suppression file.
- Do not refer consumers to DMAChoice when they are seeking removal from a specific company's mailing list. Every company should maintain an internal suppression file. DMAChoice should be used to supplement - not replace - an internal suppression file.
- Marketers should be clear and provide easily accessible and available method(s) for consumers to contact their organization regarding consumers' marketing preferences. Marketers also should continue to honor consumers' preferences.

PROVIDING CONSUMERS THE SOURCE INFORMATION TO STOP UNWANTED MAILINGS

DMA's compliance staff and the Committee reviewed instances of companies that were contacted by consumers seeking name removal from the company's mailing list to prevent future unwanted mail. The consumers also wanted to obtain the contact information for third parties working with the company to prevent other companies and organizations from sharing the contact information. Providing such third party data "source" information helps the consumer to prevent future mail from an unwanted source and from multiple similar sources.

Applicable DMA Guideline:

- Article #31 Collection Use and Transfer of Personally Identifiable Data. It is important that companies and organizations retain the data source information for consumers to fulfill this obligation and that the source information be provided in a timely fashion.

ONLINE ADVERTISEMENTS

During this reporting period, DMA's compliance staff saw an uptick in cases involving online promotional offers and advertising. There were 539 complaints via online ads during the 18-month reporting period of June 2013 – December 14. For the most recent reporting period of January 2015 to January 2016, there were 544 complaints – thus, more complaints within a shorter period of time.

Complainants encountered technical issues involving opting-out of IBA ads, issues with changing or outdated online pricing, and in one case an online picture of an ad did not match the corresponding sales promotion. The company resolved the matter by updating its ad template practice so that in the future, online ads with pictures would match the corresponding sales offer.

Inquiries regarding online advertisements take additional investigative work to determine:

- What back-end technical issues are occurring;
- What issue is the consumer encountering;
- What steps has the company taken to address consumers' concerns;
- Ensuring the company's policies and practices match their back-end technical procedures; and
- That the company's online stated practices are being properly conveyed to consumers and that there is a clear and readily accessible way for consumers to reach the company with their marketing preferences or other concerns.



Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of Offer
- Article #2 Accuracy and Consistency
- Article #3 Clarity of Representations
- Article #4 Actual Conditions
- Article #31 Collection, Use and Transfer of Personally Identifiable Data
- Article #38 Online Information and Online Behavioral Advertising
- Article #61 Laws, Codes, and Regulations

VACATION OFFERS

Periodically, DMA is informed of a promotion sent to consumers that seems to be a no-cost airline pass but is really a vacation offer. This type of activity is not an acceptable marketing practice. The airline ticket promotion usually includes an 800 number to obtain the airline passes. However, once a consumer calls the number, the actual offer is to listen to a particular promotion for a vacation rental or schedule a time to meet for a sales pitch, rather than the offer outlined. The tactic has moved aggressively online and to cell phones via robocalls, prompting the FCC and FTC to issue guidance on Robocalls: <http://www.fcc.gov/guides/caller-id-and-spoofing> and <http://www.consumer.ftc.gov/articles/0259-robocalls>.

Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of Offer
- Article #2 Accuracy and Consistency
- Article #8 Disclosure of Sponsor and Intent
- Article #9 Accessibility
- Article #17 Use of the Word Free and Other Similar Representations

Marketers should heed the following tips:

- It is important to note that all terms, conditions and requirements of an offer need to be provided in the promotional piece. There should not be “hidden” conditions – this is misleading to the consumer.
- If a product or service is offered as “free,” all qualifications and conditions should be clearly and conspicuously disclosed, in close conjunction with the use of the term “free” or other similar phrase. When the term “free” or other similar representations are made (for example, 2-for-1, half-price, or 1-cent offers), the product or service required to be purchased should not have been increased in price or decreased in quality or quantity.

ADVANCE CONSENT OFFERS

All advance consent offers must provide clear terms and conditions. Although DMA is receiving a smaller number of complaints in this area, the types of complaints are the same -- consumers find that they inadvertently agree to products and services they had no knowledge were being offered and seek assistance in cancellation of their order to avoid recurring monthly fees. For some, such recurring charges were legitimate and were based on their lack of reading the actual terms and conditions that were adequately disclosed, while for others, DMA found the disclosures were insufficient and not displayed in a prominent manner nor at the time of purchase. The complaints were not as frequent for the reporting period covered in this report as the prior year. Nonetheless, the practices and rules must still be reviewed and followed by marketers.

Applicable DMA Guideline:

- Article #12 Advanced Consent/Negative Option Marketing. This guideline is consistent with current law that does not allow for data pass without consent (See, Restore Online Shoppers' Confidence Act, 2010.) Members are encouraged to review the rules prior to establishing an online rewards program and in particular due to prohibitions against data pass (sharing financial account information with third parties without the consumer's consent.)

AUTO-RELATED OFFERS

The Committee has seen an uptick in fake “warranty” offers. These promotional mailers appear to:

- Convey a false sense of urgency,
- Come from an official government agency, like the Motor Vehicle Department, and
- Be a continuation of service when in fact it's for a new offer/service.

Additionally, the Committee continues to find that local auto dealers/franchisees need education to ensure they are in compliance when they conduct marketing promotions. DMA continues to receive examples of “prize” promotions in which the consumer believes they have won a prize (i.e., a free car or electronic device) only to learn that once they get to the dealership there are additional conditions that were not clear in the promotion or that there were no prizes left.

Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of Offer
- Article #3 Clarity of Representations
- Article #4 Actual Conditions
- Article #9 Accessibility
- Article #10 Governmental Notification
- Article #22 Use of the Term “Sweepstakes”
- Article #23 No Purchase Option
- Article #24 Chances of Winning
- Article #25 Prizes
- Article #31 Collection, Use and Transfer of Personally Identifiable Data.



Marketers should heed the following tips:

- No award or prize should be held forth directly or by implication as having substantial monetary value if it is of nominal worth. The value of a non-cash prize should be stated at regular retail value, whether actual cost to the sponsor is greater or less.
- All prizes should be awarded and delivered without cost to the participant. If there are certain conditions under which a prize or prizes will not be awarded, that fact should be disclosed in a manner that is easy to find, read, and understand.
- To protect their brand, marketers should ensure that their franchisees are educated in ethical and legal marketing compliance matters and that the mail houses they do business with are as well.

EMAIL – PHISHING & UNSUBSCRIBE ISSUES

DMA received a number of complaints from consumers who were having problems being removed from companies' email promotions. As with direct mail issues, companies were generally cooperative with Committee requests that the company place the consumer's email address on its suppression file. Overall, the Committee and compliance staff found good compliance during this time period from both members and nonmembers.

In a few instances, companies changed their internal policies for email suppression. Oftentimes, the unsubscribe issues encountered were due to technical issues.

During this reporting period, DMA saw a reduction in phishing inquiries. These types of complaints involve emails purporting to be from legitimate companies when in fact they are from fraudulent companies attempting to take contact information and other valuable data from unsuspecting consumers. DMA's compliance staff continues to notify legitimate companies when this occurs, as well as the regulatory agencies responsible for phishing schemes. Phishing is illegal and harmful to companies being targeted by such fraud.

OFFICIAL NOTICES AND “GOVERNMENT” NOTICES

DMA continues to see a variety of marketing offers that seem to be from a government agency or authority—mortgage offers, hearing aid offers, car sales, car warranties and more. This practice is a recurring complaint for consumers concerned about such marketing practices.

Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of the Offer
- Article #8 Disclosure of Sponsor and Intent
- Article #10 Solicitations in the Guise of an Invoice or a Governmental Notification.

There are specific laws prohibiting use of government agencies (such as the Social Security Administration) to sell products and services. Marketers need to steer clear of such practices as deceptive and potentially illegal.

SWEEPSTAKES

The Committee saw numerous instances of sweepstakes mailings that were not legitimate. Sweepstakes offers should not require a purchase for participation, yet there are numerous offers that are sent to consumers seeking a small amount of money in return for their “winnings”.

Unfortunately, the unwary get caught up and have sent in thousands of dollars before realizing the sweepstakes offer is not legitimate. DMA has strong guidelines regarding sweepstakes offers and will refer illegal sweepstakes to appropriate authorities.

Applicable DMA Guidelines & Laws:

- Article #22 Use of the term Sweepstakes
- Article #23 No Purchase Option
- Additionally, Article #61, there are federal, state and local rules governing legitimate sweepstakes. Members are encouraged to review the rules regardless of marketing channels.

HEALTH-RELATED MARKETING OFFERS

The Committee has been reviewing an issue involving the use of health-related information in a marketing offer. There is a federal law that governs such information – *Health Insurance Portability and Accountability Act (HIPAA)* and Article #33 Health Information & Privacy Protection of DMA Guidelines. In this instance, the Committee has found the company to be in compliance with HIPAA but is still working with the company to ensure it is meeting DMA guidelines.

Marketers should heed the following tips:

- Ensure their organization’s privacy practices are clear.

- Notify consumers in a timely manner -- what information is being collected, who it is being shared with, for what purpose, and how they may manage their marketing preferences.
- Do not make such information contingent upon receiving health care.
- Give consumers proper notice and permissioning to authorize the transfer of potentially sensitive health-related data.

In another health-related marketing offer, a company cited certain medical research and testimonials in its offer. The offer appeared to be a news article -- when in fact it was a promotional offer -- and did not provide the organization's contact information. The Committee investigated the matter to ensure that the company had the proper research and substantiation to back its claims and asked that it revise the appearance of the offer. The company was responsive and provided proper sourcing of its claims and redesigned the offer and provided a point of contact:

Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of Offer
- Article #8 Disclosure of Sponsor and Intent
- Article #21 Testimonials and Endorsements
- Article #31 Providing Consumer Choice & The Collection, Use, and Transfer of Personally Identifiable Data, Processing Consumer Choices



PRIVACY PRACTICES/POLICIES

Through casework investigation, the Committee examines companies' privacy policies and terms and conditions of the offer. DMA highly recommend that as a general rule of thumb, regardless of promotional offers or business model, privacy policy statements should be clear.

Marketers should heed the following tips:

- Ensure their organization's privacy policy is robust enough to notify consumers regarding the personally-identifiable information (PII) that is being collected and for what purposes.
- Clearly convey the relationship of brands to consumers.
- Notice/Choices: make sure that notice is clear, easily and readily available. Consumers need a clear and easy way to contact companies regarding their marketing preferences.
- Clarity of website information: avoid multiple footers that make it unclear to consumers which links they need to access for additional information regarding issues such as opting out of targeted ads.



The final section of this report provides a list of companies that are not in compliance with DMA guidelines.

During this reporting period, the Ethics Operating Committee met six times and reviewed 34 cases on marketing offers during this time period. The Ethics Operating Committee conducts thorough investigations into marketing offers via all modes of communication – online, direct mail and telemarketing, and its proceedings are confidential. Cases are only publicized in matters that the Committee finds to be in non-compliance with DMA's Guidelines of Ethical Business Practice.

The companies and organizations that are publicly reported below due to non-compliance are not eligible to join DMA until the non-compliance matter is resolved.

During this review period, the Committee found six companies to be in non-compliance.

GUARDIAN

(FAIRVIEW HEIGHTS, IL) – NONMEMBER

The complainant is on the DMAchoice file and continues to get mail from Guardian. The advertisement seems to imply that it is from Toyota, but this is disclaimed at the bottom of the ad. This is a car warranty advertisement that seems to be an official invoice/warning in very strong language, font size and color. The complainant finds the advertisement to be deceptive. Additionally, the company is not honoring the consumer's marketing preferences.

Upon review and consideration, the Committee found the following violations of the DMA Guidelines (see below), referred the matter to the Illinois Attorney General's Office, and voted to publicize the matter.

Applicable DMA Guidelines:

- Article #1, Honesty and Clarity of Offer
- Article #8 Disclosure of Sponsor and Intent
- Article #9 Accessibility
- Article #10 Solicitation in the Guise of an Invoice or Governmental Notification
- Article #31 Honoring Consumer's Marketing Preferences.

UNITED MERCHANDISE CLEARINGHOUSE (UMC)

(WESTBROOK, ME) -- NONMEMBER

Complainant received a suspicious parcel notice for jewelry. The notice asked her to call an 800 number to claim and pay for her package. She called the number for additional information since she never placed an order for the jewelry in question and was confused about the claim seeking her credit card information and asking for \$8.95 to receive "her parcel". The customer service representative asked her for her credit card information and would not address her questions or concerns.

Upon review and consideration, the Committee found the following violations of the DMA Guidelines and Member Principles (see below), referred the matter directly to the Federal Trade Commission and the Attorney Generals' Offices of Kansas and Maine, and voted to publicize the matter.

Applicable DMA Guidelines:

- Article #1, Honesty and Clarity of Offer
- Article #61, Laws, Codes, and Regulations

DMA Member Principles:

1. Is committed to customer satisfaction, good corporate citizenship, and responsible environmental, community and financial stewardship
2. Clearly, honestly, and accurately represents its products, services, terms and conditions
3. Delivers its products and services as represented
4. Communicates in a respectful and courteous manner
5. Responds to inquiries and complaints in a constructive, timely way
6. Maintains appropriate security policies and practices to safeguard information
7. Provides information on its policies about the transfer of personally identifiable information for marketing purposes
8. Honors requests not to have personally identifiable information transferred for marketing purposes
9. Honors requests not to receive future solicitations from its organization
10. Follows the spirit and letter of the law as well as DMA's.

CONSERVATIVE CAUCUS

(CONSERVATIVEUSA.ORG) MERRIFIELD, VA -- NONMEMBER

A complainant has reported that her mother is getting a minimum of ten letters per week from this organization. She has contacted the Conservative Caucus three times to ask them to stop the mailings to her mother. A representative of this organization stated that she should write the opt-out request on the mailing and send it back via the return envelope, and that list changes were handled as part of the incoming mail process.

DMA's compliance staff has received a number of additional complaints from consumers having problems removing elderly family members from this organization's promotional mailings. The organization's representative instructs consumers to mail in their opt-out request. Consumers have complained that this process is cumbersome and requires them to pay postage to be removed from this organization's mailings. The consumers do not understand why they cannot submit their opt-out request via email or over the telephone.

The Committee contacted the organization with its concerns and the organization's representative refused to change its company practices.

Upon review and consideration, the Committee found the following the following violations of the DMA Guidelines and Member Principles (see below), and voted to publicize the matter.

Applicable DMA Guidelines:

- Article #9 Accessibility
- Article #31 Honoring Consumer's Marketing Preferences

DMA Member Principles:

1. Is committed to customer satisfaction, good corporate citizenship, and responsible environmental, community and financial stewardship
2. Clearly, honestly, and accurately represents its products, services, terms and conditions
3. Delivers its products and services as represented
4. Communicates in a respectful and courteous manner
5. Responds to inquiries and complaints in a constructive, timely way
6. Maintains appropriate security policies and practices to safeguard information
7. Provides information on its policies about the transfer of personally identifiable information for marketing purposes
8. Honors requests not to have personally identifiable information transferred for marketing purposes
9. Honors requests not to receive future solicitations from its organization
10. Follows the spirit and letter of the law as well as DMA's.

AUTUMN CRUISES.NET

(407-476-0975)-- NONMEMBER

Complainant is on the Do Not Call list. He has received over five text messages to his personal cellular number stating that he has won something in a weekly contest.

Upon review and consideration the Committee found the following violations of the DMA Guidelines (see below); refer the matter to the Federal Trade Commission, Attorney Generals' Offices of Florida and where the complainant resides; and voted to publicize the matter.

Applicable DMA Guidelines:

- Article #47 Restricted Contacts
- Article #50 Use of Prerecorded Voice & Text Messaging
- Article #39 Mobile Service Commercial Message Solicitation (MSCMs)
- Article #48 Caller-Id/Automatic Number Identification Requirements
- Article #56 Mobile Opt-Out Request

EWS “ENDURANCE WARRANTY SERVICES”

(ENDURANCEWARRANTY.COM/AUTO-WARRANTY/) NORTHBROOK, IL—NONMEMBER

Complainant received a fake car warranty notice claiming that her warranty was about to expire. She believed that it appeared “official” and that it states “Immediate Response to this Notice is Required,” when in reality, it is simply an offer for a warranty service. When you call the telephone number listed on the promotion and it is answered by a third party that has nothing to do with the original warranty company. The customer service representative’s phone tactics appeared to be vague and deceptive and the typical consumer would have no idea that this is a third party vendor.

Upon review and consideration the Committee found the following violations of the DMA Guidelines (see below); refer the matter to the Federal Trade Commission; and voted to publicize the matter.

Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of Offer
- Article #8 Disclosure of Sponsor and Intent
- Article #10 Solicitation in the Guise of an Invoice or Governmental Notification

MOTOR VEHICLE SERVICES/AMERICAN AUTOMATIVE SERVICE SOLUTIONS, INC.

WENTZVILLE, MO -- NONMEMBER

This is a recurring complaint from consumers. A complainant forwarded to DMA a mail piece from this company that seems to indicate urgency and a request for immediate action due to an issue with the individual's car warranty. It appears to be coming from an agency of the government - "Motor Vehicle Services Division" - although the fine print indicates it is not from the local DMV.

Upon review and consideration, the Committee found the following violations of the DMA Guidelines (see below), referred the matter to the Federal Trade Commission, and voted to publicize the matter.

Applicable DMA Guidelines:

- Article #1 Honesty and Clarity of Offer
- Article #8 Disclosure of Sponsor and Intent
- Article #10 Solicitation in the Guise of an Invoice or Governmental Notification



DMA's self-regulatory guidelines and procedures are meant to help individual companies and the data-driven marketing industry as a whole maintain high ethical standards. Oftentimes companies are not aware that a particular promotion or practice has the potential for causing consumer confusion or contributing to a negative image of data-driven direct marketing. DMA believes the work of the Committee and Accountability staff help ensure that high ethical business standards are maintained and consumer confidence in direct marketing is enhanced.

2016 DMA ETHICS COMMITTEES

DMA has two Board-level Ethics committees: the Ethics Policy Committee and the Ethics Operating Committee. Each is comprised of experienced marketers and thought leaders who seek to advance marketing ethics across the industry for consumer benefit and to build long term trust.

The marketing practitioner-led DMA Ethics Policy Committee:

- Meets four-six times annually to review pending matters impacting marketing ethics.
- Reviews pending activities at the federal and state levels to ensure members stay “ahead of the regulatory curve” by providing quick and transparent solutions for consumers having challenges with marketing offers and data uses.
- Reviews and updates changes to the DMA's Guidelines for Ethical Business Practices for approval by the DMA's Board of Directors as needed.
- Provides training to members by serving on webinars, participating in sessions at DMA events and preparing toolkits and white papers on issues of concern.
- Guides and advises DMA staff on key and trending marketing practices and their impact on marketing and ethics.

Ethics Policy Committee Members:

Chair: Judy Macior, VP Compliance, Experian

Vice Chair: Helen Mac Murray, Partner, Mac Murray, Peterson and Shuster, LLC

Members:

Bill Bond, Director, Membership Analytics & Operations, Environmental Defense Fund

Garry M. Brown, VP Public & Government Affairs, Highlights for Children
Dennis Dayman, Chief Privacy & Security Officer, Return Path
John Ernst, VP Solutions & Insights, Nonprofits, Wiland
Jeannie Green, VP NFP, Epsilon
James Insinga, 1-800 Flowers
Pegg Nadler, Pegg Nadler Associates
Len Shneyder, VP Industry Relations, Sparkpost.com
Diane Tancredi, VP, Media Horizons Management
Sal Tripi, Senior Director of Operations & Compliance, Publishers Clearing House
Aaron Weber, Communications Specialist, American Student Assistance
Rick Witsell, VP Marketing & Compliance, Alliant

The peer-review Committee on Ethical Business Practice/"Ethics Operating:"

- Meets six times per year to review pending casework brought to DMA by consumer and member complaints. ***Committee meetings are confidential.***
- Reviews promotions and practices that violate DMA self-regulatory ethics guidelines & standards.
- Suspect promotions and practices reported via other industry members, consumers, consumer groups, and through staff monitoring.
- Works with companies (members and nonmembers) towards correcting or stopping questionable practices.
- Cooperation is voluntary, most companies work with the Committee to correct practices.
- If there is no cooperation and the company is a member, the Committee refers the Company to the DMA Board of Directors for censure, suspension, or expulsion of their membership.
- If there is no cooperation, and the company is not a member, Committee may refer case to proper enforcement authorities at the state and federal level as may be required.

Ethics Operating Committee Members:

Chair: Robert Reger, SVP Data Solutions, Epsilon

Vice Chair: Susan Stashower, VP Brand Management, American Express

Members:

Jordan Abbott, Compliance Attorney, Acxiom

Rick Buck, Head of Privacy, Zetainteractive.com

Chris Irving, Assistant VP, Consumer & Legal Affairs, Publishers Clearing House

Noreen Kaminski, VP, Government Affairs & Compliance, DialAmerica Marketing Inc.

Jackie Kern, Managing Director, Main Street Direct

Alex Krylov, Privacy and Compliance Lead, Experian Marketing Services

Teressa Johnson, Privacy Office Administrator, Health Services Corporation (Blue Cross Blue Shield)

Colleen Sugarman, General Manager, Direct Marketing, Sling TV

John Tighe, Senior Business Leader, Direct Marketing Global Products & Services, MasterCard Advisors

DMA Ethics Committee: Liaisons from the DMA Board of Directors:

JoAnne Monfradi Dunn, President & CEO, Alliant
Moses Foster, President & CEO, West Cary Group

DMA Accountability Staff:

Xenia “Senny” Boone, Esq., DMA General Counsel
Angela Tyree, DMA Consumer Relations Manager
Lisa Brown Shosteck, DMA Compliance Consultant

To locate the list of companies not in compliance and view previous public reports see, <http://thedma.org/accountability/ethics-and-compliance/>.

To file a complaint, you may email us at ethics@the-dma.org or contact Lisa Brown Shosteck at lshosteck@the-dma.org.

To share an ethical standard that could benefit the industry as a whole: email us at ethics@the-dma.org.

DMA Resources for Responsible Marketing:

- DMA Guidelines for Ethical Business Practices: <http://thedma.org/wp-content/uploads/DMA-Guidelines-2016.pdf>
- DMA's consumer preference site for consumer name removal and modification options for mail, email, deceased name removal & caretaker requests: www.dmachoice.org
- For the interest-based ad program, businesses should sign up for the icon at www.aboutads.info & consumers at www.youradchoices.com for their opt-out requests.
- For more information about our consumer complaint handling process: <http://thedma.org/accountability/ethics-and-compliance/>.
 - To file a general ethics complaint: <http://form.jotformpro.com/form/30175910225951>
 - To file an Interest-Based Advertising complaint: <http://form.jotformpro.com/form/23244495126958>
- For Data Transfer from the EU & Switzerland to the U.S.:
 - DMA continues to work with the U.S. Department of Commerce regarding changes required by the new Privacy Shield (replacing the prior Safe Harbor program) which, at the time of this report's publication, was in process of final adoption. We will keep members apprised of new developments and changes to this DMA compliance program for DMA members and the broader marketing ecosystem.
 - For more information, please contact DMA at: safeharbor@the-dma.org
- For DMA's environmental resources for marketers:
 - Recycle Please Program: <http://thedma.org/accountability/environment/>

CONTACT US

For questions or comments about this report, you may contact us at:

DMA Accountability Department

[*ethics@the-dma.org*](mailto:ethics@the-dma.org)

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