The DMA Annual Compliance Report by the DMA’s Corporate & Social Responsibility Department reports on consumer affairs and casework covering the period from February, 2012 through June of 2013.
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EXECUTIVE SUMMARY

This report seeks to inform the public of the ongoing self-regulatory work which DMA undertakes to ensure consumer choice and accountability within the marketing industry. In the period of February 2012 to June 2013, DMA has processed over 16,808 inquiries, involving questions of compliance and marketing practices. This included 350 complaints involving 60 member companies. The most common complaints were mail removal, email or spam, and “Pass-the-Buck.” “Pass-the-Buck” is where consumers are sent to DMA by a specific company when they wish to be taken off of that specific company’s internal list. DMA also received over 300 complaints about online behavioral advertising (OBA) from March 2012 to June 2013. They were most commonly about dating / “indecent” advertisements, general, non-targeted ads, and ads that blocked content.

The Corporate & Social Responsibility (CSR) Committee has reviewed fifty-five cases during this time period, and in twelve of these cases companies failed to be compliant and to correct their behavior.

US Circulation Corporation of Buford, Georgia sold magazine subscriptions but never sent the magazines. Requests for a refund were ignored and only answered a year later with the offer of additional magazines.

Sentry Armored Dispatch Company of Fort Lauderdale, Florida, and Data Release Division of Plainview, New York targeted the same customer and demanded payment for release of prize money.

American Intimates of Brooklyn, New York did not respond to a customer’s repeated attempts for customer service via multiple phone calls, letters and emails.

Caribbean Cruise Lines, through Political Opinions of America, did not give a promised reward to an individual who completed a survey. In addition, they contacted the individual on her cell phone, which was listed on the Do-Not-Call registry.

Motor Vehicle Services of Wentzville, Missouri sent a piece of mail that deceptively looked like a government mailing demanding fines, but was in fact an offer for a car warranty. They also did not honor a customer request to stop receiving mail.

Trustworthy Security Groups of Oxford, United Kingdom gave a customer only $3,980 of a $150,000 prize and stated the rest went to taxes.

Retro Vespa of New York City did not provide a customer the scooter he bought in full, nor his money back for a purchase of the scooter made in March 2011.

Direct Marketing Surveys (DMS) of Fort Lauderdale, Florida, has given multiple lists that do not match the description of what customers paid for. The Committee believes DMS is linked to SRC, whom the Committee has previously cited in a report (2011) and referred to the Federal Trade Commission (FTC).
N.C.C. of Miami, Florida demanded a “documentation fee” for a customer to collect a cash prize which was never received.

DCA of Atlanta, Georgia asked for money as “processing payment” for cash prizes, sent to one customer up to seven letters a day. These letters were sometimes attached to a Financial Acquisition Agency from Miami Florida, which looked as if it was associated with a government entity.

The Publishers Billing Center of White City, Oregon may be targeting the elderly with alleged magazine subscription renewal notices, up to five letters a day were reported to a single customer by a consumer complainant.

Finally, Slotguard, Inc. of Richardson, Texas, a consumer name removal services company, does not have a detailed privacy policy on its website and it is therefore unclear what its privacy protections may be.

One member company was reviewed due to its list practices: B2B Data Group, LLC of West Hollywood, CA. B2B was suspended from DMA membership and then later reinstated as a potential member due to its efforts to come back into compliance.

DMA strongly believes that self-regulation is successful in addressing consumer issues without the interference of federal legislation. These efforts to hold certain companies accountable is proof of the rigorous standards which the industry has set for itself. Consumer trust is integral to DMA’s mission, and addressing their concerns directly as well as unveiling bad actors is key to this endeavor.

Details of the findings follow this summary.
ETHICS COMPLIANCE REPORT 2012-2013

Summary:

This report summarizes the ongoing consumer affairs, investigation and casework of the DMA’s Corporate & Social Responsibility (CSR) department spanning February, 2012 through June of 2013. The DMA CSR Department supports the DMA’s Ethics Operating Committee, which handles complaints on member and non-member consumer and business marketing practices.

The purposes of the DMA’s self-regulatory program are to ensure consumer concerns are addressed expeditiously, and to protect the marketing industry from unreasonable regulation via a strong self-regulatory program and mandates for members and those they work with. The DMA considers self-regulation to be a key component of its mission to build consumer trust and be accountable.

I. CONSUMER AFFAIRS STAFF COMPLIANCE REPORT

During this compliance report review period - February 2012 through June of 2013 – the DMA CSR consumer affairs staff member processed over 16,808 consumer and company inquiries regarding marketing practices via mail, phone and email. This is broken into 10,513 via email and 6295 phone calls. (This is not inclusive of consumer contacts received and referred by the DMA customer service department in the DMA New York office.)

The chart below shows the types of individual consumer complaints the staff has assisted with between December 2012 through June 2013. (This chart precedes the Committee casework period we are reporting on.) During this time period, the DMA consumer affairs staff processed over 350 complaints involving 60 member companies ranging from consumers wanting help in name removal off a mail or email list, to consumers who seek information on how to spot and file a complaint for a fraudulent sweepstakes offer.
As indicated in the chart above, the most 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 (217 inquiries.)

“Pass-The-Buck” - Oftentimes, a consumer will contact a company directly to ask that their name & address be removed from the company’s mailing lists, and the company will refer the consumer to DMA instead of processing the request. We call that practice “Pass-The-Buck”. Under DMA Guidelines, we require that companies maintain their own in-house suppression file. It is not appropriate to refer consumers to the DMA when the consumer wants to be removed from a specific company’s mailing list.

When companies refer the consumer to DMA, the consumer then mistakenly believes that the 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 i.e., the consumer wants information on how to be removed from many marketing company mailing lists or catalogs. All marketers must use an internal suppression list for their company.

Refund/exchange/merchandise questions - Some consumers wrote in with problems with a company’s:

- exchange/refund/warranty policy,
- cancelling a subscription or order,
- shipping & handling charges, or
- lack of customer service.
Email removal/Spam - A number of consumers had problems unsubscribing from emails and the majority of these complaints involved B2B emails. DMA referred several to the Federal Trade Commission (FTC) and provided guidance to consumers on the Can the Spam Act and how to file a complaint directly with the FTC. Some of these email marketers falsely claimed to be a “DMA-approved” organization.

A. ONLINE BEHAVIORAL ADVERTISING & OTHER ONLINE COMPLIANCE ISSUES

“Targeted” Online Advertising – During this compliance period, DMA continued its compliance role for the Digital Advertising Alliance (DAA) to address online marketing accountability in the marketing industry and to provide businesses and consumers with assistance in the digital arena.

The DAA offers consumers an opt-out system for OBA via www.aboutads.info and the Advertising Option Icon (see below), which appears on behaviorally-targeted Internet ads. The DMA works with consumers who have complaints about online ad practices and may wish to opt-out of such advertising. The 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.

We have noticed misperceptions regarding the types of ads that are regulated under this program by consumers. The descriptions below distinguish between general online ads that may not be relevant and online behavioral advertising:

General Online Ads:
Advertising seeks to target the right products to the right audience, and makes possible low-or no-cost content and services. Most online ads aren't matched to consumers as individuals but to data categories -- such as demographics, interest groups, or a general geographic location such as a state. The web sites that people visit work with online advertising companies to provide advertising that is as relevant and useful as possible, and the ads are placed according to such data criteria.

Interest-Based Online Ads: What is online behavioral advertising?
Online behavioral advertising -- which is also sometimes called “interest-based advertising” – is different. It uses information collected across multiple web sites that people visit in order to predict preferences and to show ads that are most likely to be of interest to the individuals. Many companies engaged in OBA will indicate their adherence to ethical best practices for OBA by providing an Advertising Icon, labeled “Ad Choices” to indicate their participation in the self-regulatory program and they should be responsive to consumers’ concerns and choice requests.
Consumers can file a complaint with the DMA if they believe that a practice or ad may have violated the Self-Regulatory Principles for Online Behavioral Advertising: http://www.the-dma.org/government/obaethicscomplaintform.shtml.

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.
- **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**: before a material change is made to practices regarding OBA data collection and use policies, limiting the collection of sensitive data: www.aboutads.info.

The chart above represents consumer complaints from March 2012 through June 2013. During this time period, DMA has received over 300 complaints through the OBA complaint process. The top areas of concern for consumers during their online experience were regarding: dating or “indecent” ads, general
(not targeted) ads, ads blocking content, ads not targeted correctly, political ads and all online ads.

**Dating or “indecent” ads** - consumers were concerned about receiving online dating ads and ads that seemed offensive based on the content served. Complaints came from happily married consumers being offended by receiving singles ads. These consumers didn’t want their spouses to think these were targeted ads. Consumers with strong religious beliefs didn’t want their children to view provocative ads. There were issues with wrong gender matches whereby singles felt they were not being properly targeted with the right gender for their own dating preferences. Another area of concern was consumers who did not want to be served “adult-themed” ads i.e., lingerie or swim suit ads.

**General ads** – consumers wanted to opt-out of specific ads that were not targeted to them based on browsing history but just a general ad similar to those that are found on TV or in the newspaper. We provided many consumers with tips and links for contacting their Internet Service Providers (ISPs) to help them better manager their online experience and provided education on the different types of ads – OBA vs. general as outlined above. A consumer cannot opt-out of a general ad since the ad is not being sent to them specifically, while the opt-out process should work for OBA ads since that is cookie-based.

**Ads that block content** - consumers complained that the actual placement of the online ad was essentially blocking the content that the consumer wanted to read. The majority of these consumers did not object to the content or receiving such online ads but were requesting that the ads be placed on the side or bottom of the screen – and not covering actual content.

**All ads** – this is a group of consumers who do not want to receive any online ads. This group of consumers believed that the opt-out process was too difficult or believed that consumers should opt-in to receiving online ads. They did not want to see them on their email service provider’s site or other web sites that they were viewing. The DMA provided a fact sheet explaining the difference between general and OBA ads, as well as providing instructions on how to opt-out and links to popular Internet Service Providers (ISPs) and Email Service Providers (ESPs) privacy links.

**Ads not targeted correctly** – complaints ranged from either not matching interest correctly: the adult nature of an ad displaying on a kids’ site or on a family computer with lingerie offers; religious nature of web site didn’t match online abortion ad on a conservative site; and a gay cruise targeted to a heterosexual family man. Alternatively, some consumers believe that the ads were too closely targeted to the consumer i.e., a consumer with a Hispanic name was offended when he received a Spanish ad (conversely another consumer wanted to be served ads in French); and a consumer who has breast cancer saw a life insurance ad displayed on the web site and felt targeted.

**Political ads** – during the Presidential election, this was a very heated set of concerns for consumers who did not agree with the candidate who was advertising; some thought there should
be equal representation, and some supported the candidate but thought there were too many online ads about them.

**Technical issues** – some consumers had problems opting-out of online ads/videos/pop-ups and cookies. Staff provided guidance and tips to many consumers on how to re-set their cookie preferences, or to contact their Service Provider for spam blocker assistance. Additionally, some OBA participating companies did have technical glitches that required patches to fix the error.

**Email-related issues** - these consumers were concerned about receiving spam or problems opting-out of emails or texts. Staff provided guidance on how to report spam to the Federal Trade Commission and to contact their Email Service Provider for tips on managing their email preferences.

**ID Theft/Hacking/Virus** – complaints ranged from consumers who thought: a virus infected their computer causing it to slow down, someone was taking their identity, and they were being provided deceptive links directed to porn websites.

**Flash ads** – A few consumers wrote in with concerns about receiving flash ads because they have epilepsy and it could trigger seizures and there is no way to opt-out of the ads.

**Online directory/database** – consumers wanted to be removed from online business directories for the following reasons: no longer in profession, didn’t want age displayed, or wanted personal identifying information removed.

**Deceptive ads** – some consumers claimed they were eligible for or promised certain awards and did not receive them or were charged for them. One consumer received an ad for a free GB flash drive and then was charged for it. Other consumers received ads for free “awards” for online games or a Skype gift award but didn’t receive the awards.

**OBA** - There were only a handful of consumers who wrote in about problems opting-out of Online Behavioral Advertising. One complaint actually led to the providers re-examining the specific ad and realizing that it was not a targeted ad and they reclassified it. Another complaint led us to learn that there might be some technical issues in opting-out of some targeted ads. Some antivirus software can interfere with the opt-out process.

DMA worked with concerned consumers on these matters and provided consumers with tips on how to ensure that their OBA opt-out process would be honored by changing their cookie preferences.

**B. ASSISTING CONSUMERS MANAGE MAIL MARKETING PREFERENCES**

**“Do Not Mail,” & DMAchoice.org** - The DMA offers consumers a range of preferences via the largest mail preference service nationally, [www.dmachoice.org](http://www.dmachoice.org). This consumer service includes a suppression service for unwanted mail by category, email, and specialized preference services for caretakers and family members of the deceased who need help in managing mail for their
family members. This past year, the DMA expanded the service to include choice for consumers who wish to opt-out of Every Door Direct Mail (EDDM), a new service offered by the United States Postal Service which delivers local marketing mail for a particular route, not by individual addresses.

II. DMA ETHICS OPERATING COMMITTEE ACTIVITY AND REPORT

Next, we turn to the public reporting of companies and a summary of the Ethics Operating Committee casework based on DMA’s self-regulatory function for the marketing industry. DMA has 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 www.dmaresponsibility.org/Guidelines/.

By way of background, the Committee reviews and investigates organizations that are involved in complaints regarding their marketing practices. The organization’s marketing practices are reviewed under DMA’s Guidelines for Ethical Business Practices, and some cases also involve potential legal concerns. (See www.dmaresponsibility.org/Guidelines/)

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

The DMA’s Ethics Operating Committee meets approximately every 8 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 www.dmaresponsibility.org/companycompliance/.

The issues for each case are outlined in the case summary section below.

A. COMMITTEE CASEWORK TRENDS & ISSUES

First, we provide a general summary of the casework and issues that were raised during Committee proceedings and were resolved without a public disclosure of the companies involved:

1. Vacation Offers

Periodically, the 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 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 rather than the offer outlined. This past year, the tactic has moved aggressively online and to cell phones via robocalls. The issues raised by the Committee include violations of DMA Ethical Guidelines Articles # 1 (Honesty and Clarity of Offer), #2 (Accuracy and
Consistency), #8 (Disclosure of Sponsor and Intent), and #17 (Use of the Word Free and Other Similar Representations.)

2. Advance Consent & Post Purchase Web Loyalty Promotions

Advance consent marketing offers that lacked clear terms and conditions were a common concern during the 2010-2011 case review period. Consumers found they had inadvertently agreed to products and services they had no knowledge were being offered when they were online, and then contacted the DMA for help with 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, we did find the disclosures were insufficient and not displayed in a prominent manner nor at the time of purchase. These complaints were not as frequent this year, but the practices and rules must still be reviewed by marketers.

The DMA requires adherence to 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.)

3. Auto Dealers

The Committee found that in the past year local auto dealers need education to ensure they are in compliance when they conduct marketing promotions. One case example involved a local dealer scratch-off advertisement in a local flyer whose terms and conditions were not clear to the consumer. The consumer thought they had actually won a car based on the terms of the offer. The consumer did not win the car and then complained to the DMA about the offer. Another dealer mailed an offer that looked as if it came from a governmental agency but was simply an advertisement. Another was found to be mailing to a deceased individual and it was very difficult to contact the dealer to have the deceased’s name removed. The DMA Articles that apply include Article #1 Honesty and Clarity of Offer, Article #3, Clarity of Representations, Article #4, Actual Conditions, Article #9 Accessibility, Article #10, Governmental Notification, Article #31 Collection, Use and Transfer of Personally Identifiable Data.

4. Email & Phishing

DMA staff acts on phishing requests that arrive via email on an ongoing basis. This past year, fraudulent emails purporting to be from legitimate companies were being sent to individual consumers in an attempt to take their contact information and other valuable data. The legitimate companies were alerted, as were the regulatory agencies responsible for phishing schemes. Phishing is illegal and harmful to companies being targeted by such fraud.
5. Official Notices and “Government” Notices

We continue to see a variety of marketing offers that seem to be from a government agency or authority—mortgage offers, hearing aid offers, car sales and more. This practice is a recurring complaint for consumers. The practice violates DMA Guideline #1, Honesty and Clarity of the Offer and 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.

6. Providing Consumers the Source Information to Stop Unwanted Mailings

The DMA 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 “source” information helps the consumer to prevent future mail from an unwanted source and from multiple similar sources. This is a DMA member requirement in Article #31. It is very important to provide consumers, upon request, with the source of their name so that they can control future offers; especially to those who cannot handle reviewing the volume of mail that can be generated if the request is not honored.

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. (See DMA Article #31, Collection Use and Transfer of Personally Identifiable Data.)

7. Offering Consumer Choice to Reduce Unwanted Mail

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 staff found good compliance during this time period from both members and nonmembers.

Upon further communication from the Committee, the companies reviewed their internal policies to ensure they are using the correct name removal process for their own mailings. (See DMA Article #31, Collection Use and Transfer of Personally Identifiable Data.)

8. 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 the 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
(See DMA guidelines Articles #22, Use of the term Sweepstakes, Article #23, No Purchase Option.) in addition to federal, state and local rules governing legitimate sweepstakes. Members are encouraged to review the rules regardless of marketing channels.

B. PUBLIC REPORTS OF NONCOMPLIANCE & FAILURE TO CORRECT

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

The Ethics Operating Committee met 8 times and reviewed 55 cases on marketing offers during this time period through its confidential proceedings. One member company was suspended and then reinstated due to its list practices: B2B Data Group, LLC West Hollywood, CA. This company worked with the Committee to ensure its current email list practices are in compliance and the Committee monitored for complaints during the period of suspension. Upon review there were no additional complaints and the company is eligible to rejoin the DMA.

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

1. US Circulation Corporation, Buford, GA (Nonmember)

Complainant claimed to have paid cash during a door-to-door campaign for four magazine subscriptions that was to be delivered over a 2-year subscription period. The complainant claims to have never received any of the publications and her requests for a refund were never honored despite over a year’s worth of correspondence. The company offered to provide additional magazines but the complainant declined its offer and wanted a full refund. Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to publicize the matter:

DMA Guidelines:

- **Article #1 Honesty & Clarity of the Offer:** All offers should be clear, honest and complete so that the consumer may know the exact nature of what is being offered, the price, the terms of payment (including all extra charges) and the commitment involved in the placing of an order. Before publication of an offer, marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive or fraudulent should not be used.

- **Article #4 Actual Conditions:** All descriptions, promises and claims of limitation should be in accordance with actual conditions, situations, and circumstances existing at the time of the promotion.

2. Sentry Armored Dispatch Company, Fort Lauderdale, FL (Nonmember) & Data Release Division, Plainview, NY (Nonmember)

Complainant received fraudulent sweepstakes offers from both of these organizations asking her for prize money once she provided a payment for release of awarded amounts.
Upon review and consideration the Committee found the following violations of the DMA Guidelines and potentially violating federal law. The Committee voted to publicize the matter:

**DMA Guidelines:**
- **Article #23, Sweepstakes, No Purchase Option:** It is illegal to require a consumer to provide money in order to win a sweepstakes or prize promotion or to even increase the consumer’s chances for winning.
- **Article #25, Prizes:** Each sweepstakes promotion is confusing and provides so many terms and conditions it is difficult to understand. Each promotion does not provide a clear point of contact for any inquiries. The only point of contact or communications occurs when a consumer is asked to send in a small amount of money to receive a “winning,” amount.

3. **American Intimates, Brooklyn, NY (Nonmember)**

Complainant ordered garments from American Intimates. She had the same brand and size at home so she thought they would fit. However, they did not fit and she simply wanted to exchange them for the larger size. However, when she went on the company's web site they claimed there would be a 20% “restocking fee” for items returned and no exchanges were allowed. She tried by phone (she reported that the voice mail box was always full), mail and email to contact customer service to see if she could simply return the items for the larger size without having to pay the restocking fee. However, none of her attempts to speak to someone or get an answer were successful. There appears to be no method for reaching customer service. Upon review, there are numerous complaints about the company online ranging from lack of customer service to consumers allegedly never receiving promised merchandise. The company did provide an initial yet inadequate response to the Committee’s concerns in that it did not directly address the complainant’s regarding her inability to reach customer service.

Upon review and consideration the Committee found the company in violation of DMA Principles & Guidelines and voted to publicize the matter.

**DMA Principles:**
Marketers should be committed to customer satisfaction and respond to inquiries and complaints in a constructive and in a timely manner. (See DMA Member Principles: [http://www.the-dma.org/cgi/disppressrelease?article=656.](http://www.the-dma.org/cgi/disppressrelease?article=656.))

**DMA Guidelines:**
- **Article #9 Accessibility:** Marketers should clearly identify name, address, and telephone number at which the consumer may obtain service. According to the complainant and numerous online complaints consumers are unable to reach customer service in any mode (email, telephone and mail).

4. **Caribbean Cruise Lines (Political Opinions of America); BBB lists legal representation located in New York, NY (Nonmember)**
The complainant received a sales call from the company to her cell phone which is on the National Do-Not-Call Registry. It was a request for the complainant to complete a 30 second survey on political issues (www.politicalopinionsofamerica.org) to receive a 2-night stay in the Bahamas. The web site referenced had no listed contact information. The complainant did complete the survey where she provided personally identifiable information and was then transferred to a third party operator with Caribbean Cruise Line. The company did not respond to multiple requests from the Committee to address its concerns.

Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to publicize the matter:

- **Article #1, Honesty And Clarity of Offer**: all marketing contacts should disclose the name of the sponsor and each purpose of the contact. No one should make offers or solicitations in the guise of one purpose when the intent is for another.
- **Article #8, Disclosure of Sponsor and Intent**: all marketing contacts should disclose the name of the sponsor and each purpose of the contact. No one should make offers or solicitations in the guise of one purpose when the intent is for another.
- **Article #47, Restricted Contacts**: a marketer should not knowingly call an unpublished or number listed on the DNC registry.

5. **Motor Vehicle Services, Wentzville, MO --Various addresses (Nonmember)**

There are two different complaints for this company stemming from mailings. The first complaint is regarding the actual mail piece. It appears to be an official mailing from a governmental authority with fines due for “interference.” Upon opening the mail piece, it is actually an offer for warranty coverage for a car warranty that is allegedly expiring.

The second complaint is a problem involving a name suppression request. The complainant claims that the company stated it would remove the consumer from the mailings, but his request was not honored.

Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to publicize the matter:

- **Article #1, Honesty And Clarity Of Offer**: All offers should be clear, honest, and complete so that the consumer may know the exact nature of what is being offered, the price, the terms of payment (including all extra charges) and the commitment involved in the placing of an order. Before publication of an offer, marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive, or fraudulent should not be used.

- **Article #8, Disclosure Of Sponsor And Intent**: All marketing contacts should disclose the name of the sponsor and each purpose of the contact. No one should make offers or solicitations in the guise of one purpose when the intent is a different purpose regardless of the marketing channel used.
• **Article #10, Solicitation In The Guise Of An Invoice Or Governmental Notification:**
  Offers that are likely to be mistaken for bills, invoices, or notices from public utilities or governmental agencies should not be used.


The complainant received a check in the mail for $3,980 dollars with a “prize claim/final notification” letter claiming that he had won $150,000 US dollars. The company claims it has made many unsuccessful attempts to contact him and is providing him with this check that has been deducted from his winnings. “The sole purpose of the check is for the payment of Government Taxes on your big winnings…” They then ask him to call a claim agent at 1-289-892-0011 before depositing the check.

Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to refer the matter to appropriate legal authorities and publicize:

• **Article #1, Honesty And Clarity Of Offer:**
  All offers should be clear, honest, and complete so that the consumer may know the exact nature of what is being offered, the price, the terms of payment (including all extra charges) and the commitment involved in the placing of an order. Before publication of an offer, marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive, or fraudulent should not be used.

• **Article #4, Actual Conditions:**
  All descriptions, promises, and claims of limitation should be in accordance with actual conditions, situations, and circumstances existing at the time of the promotion.

• **Article #8, Disclosure Of Sponsor And Intent:**
  All marketing contacts should disclose the name of the sponsor and each purpose of the contact. No one should make offers or solicitations in the guise of one purpose when the intent is a different purpose regardless of the marketing channel used.

• **Article #24, Chances Of Winning:**
  No sweepstakes promotion, or any of its parts, should represent that a recipient or entrant has won a prize or that any entry stands a greater chance of winning a prize than any other entry when this is not the case. Winners should be selected in a manner that ensures fair application of the laws of chance.

• **Article #25, Prizes:**
  Sweepstakes prizes should be advertised in a manner that is clear, honest, and complete so that the consumer may know the exact nature of what is being offered.
7. **Retro Vespa, New York, NY (Nonmember)**

Complainant special ordered a Vespa motor scooter in March 2011. The company’s web site informed consumers that if a product was not in-stock it could take up to 16 weeks to deliver. The complainant paid in-full, $5,325, for the item. The company then informed customers in June 2011 that their scooters were being built and then in July emailed the customers that their scooters were not being built and that new purchase orders would fund the building of their scooters. In August, the complainant requested a full-refund and he has not received another response from the company. Additionally, he had not received a refund or the scooter he ordered. The company did not respond to multiple requests from the Committee to address its concerns.

Upon review and consideration the Committee found the following violations of the DMA Principles and Guidelines and voted to publicize the matter:

**DMA Principles:**
Is committed to customer satisfaction and responds to inquiries and complaints in a constructive and timely manner.

**DMA Guidelines:**
- **Article #29, Product Availability & Shipment:** Marketers should offer merchandise only when it is on hand or when there is a reasonable expectation of its timely receipt. Marketers should ship all orders according to terms of offer or within 30 days and should promptly notify customers of any delays.
- **Article #61, Laws, Codes & Regulations:** Potential violation of the Mail & Telephone Order Rule.

8. **Direct Marketing Surveys (DMS), Fort Lauderdale, FL (Nonmember)**

A complainant contacted DMA with concerns about the poor quality of a list that her company purchased from DMS. She complained that the list provided was not what was promised. The list was supposed to include names of consumers who responded to credit card stuffers and within a certain income bracket: over $500,000, age 55-80, and residing in 4 specific zip codes. The complainant bought the list and recognized a name on the list that was a colleague, so she called her colleague. The colleague said that she was familiar with this company and that she had bought a list from them several years ago and the list was not as promised and the company is not reputable. The complainant called several other names on the list and the people said they did not respond to any stuffers with interest in her services. The complainant also checked property values for over 40 people on list and did not appear to qualify for income level. The sales representative claimed that the company could not guarantee what people state is their income level.

The Committee discussed that Direct Marketing Survey may be linked to SRC. (SRC was a company that provided B2B lists, and its practices were reviewed by the Committee and the
company was referred to the FTC and publicized for non-compliance in the last DMA compliance report.

The postal address to DMS was not valid and the Committee’s letter was returned and the website is no longer active.

Upon review and consideration the Committee found the following violations of the DMA Principles and Guidelines and voted to publicize the matter:

**DMA Principles:**
1. A DMA member is committed to its customers’ satisfaction.
2. Clearly, honestly, and accurately represents its products, services, terms and conditions.
3. Delivers its products and services as represented.
4. Responds to inquiries and complaints in a constructive timely way.

The offer made does not seem to accurately reflect its actual products and services.

**DMA Guidelines:**

- **Article #1, Honesty And Clarity Of Offer**
  Before publication of an offer, marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive, or fraudulent should not be used.

  The offer seemed to be clear but once the recipient received the actual leads, they felt the offer was misleading due to the quality and inaccuracy of the leads provided.

- **Article #2, Accuracy And Consistency**
  Simple and consistent statements or representations of all the essential points of the offer should appear in the promotional material. The overall impression of an offer should not be contradicted by individual statements, representations, or disclaimers.

  What is being offered/provided is clear and well defined. The Terms undermine the statement of what is provided and create doubt about the accuracy of the data.

- **Article #4, Actual Conditions**
  All descriptions, promises, and claims of limitation should be in accordance with actual conditions, situations, and circumstances existing at the time of the promotion.

  In light of the clarity of the stuffer, we needed to understand the meaning & purpose of the following statement in the Terms: “We are aware that there will be bad information on our files to include a mail piece returned by a different party than the one named in our file.”

- **Article #19, Guarantees**
If a product or service is offered with a guarantee or a warranty, either the terms and conditions should be set forth in full in the promotion, or the promotion should state how the consumer may obtain a copy. The guarantee should clearly state the name and address of the guarantor and the duration of the guarantee.

Any requests for repair, replacement, or refund under the terms of a guarantee or warranty should be honored promptly. In an unqualified offer of refund, repair, or replacement, the customer's preference should prevail.

9. **N.C.C., Miami, FL (Nonmember)**

Complainant contacted DMA about sweepstakes mailings posing as an official notice. He claims that they “do not pay.” The mailing contains claims that the prize money is due to the consumer upon his payment of a “documentation fee,” the consumer took the steps required on the “confirmed winner claim check,” and sent them $27.95.

Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to refer to publicize the matter:

- Article #1, Honesty and Clarity of Offer
- Article #3, Clarity of Representations
- Article #4, Actual Conditions
- Article #5, Disparagement
- Article #9, Accessibility
- Article #10, Solicitation in the Guise of an Invoice or Governmental Notification
- Article #12, Advance Consent
- Article #22, Use of the Term "Sweepstakes"
- Article #23, No Purchase Option

Promotions should clearly state that no purchase is required to win sweepstakes prizes. They should not represent that those who make a purchase or otherwise render consideration with their entry will have a better chance of winning or will be eligible to win more or larger prizes than those who do not make a purchase or otherwise render consideration. The method for entering without ordering should be easy to find, read, and understand. When response devices used only for entering the sweepstakes are provided, they should be as easy to find as those utilized for ordering the product or service.

10. **DCA, Atlanta, GA and Financial Acquisition Agency, Miami, FL (Nonmembers)**

A consumer contacted the Committee on behalf of her elderly father over whom she has a power of attorney. She reports that her father is being targeted by scammers who send him 6-8 letters per day, and that he has lost $100,000 to such “letter scammers.” He gets letters and then sends them small amounts of cash. Over the course of last summer, he withdrew large amounts of cash and credit card advances totaling the $100,000 and “goes to Fed Ex and ships cash to apartment buildings in Miami.” She has contacted the PO Box Office listed above to remove his name, but he keeps getting mail and now she is getting the same type of mail at her own home.
The mail pieces she sent in are sweepstakes/official notices to the consumer seeking a “processing payment of $20.” One letter states it is from a “Financial Acquisition Agency” which seems as if it is tied to a federal authority.

Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to publicize the matter:

- Article #1, Honesty and Clarity of Offer
- Article #3, Clarity of Representations
- Article #4, Actual Conditions
- Article #5, Disparagement
- Article #9, Accessibility
- Article #10, Solicitation in the Guise of an Invoice or Governmental Notification
- Article #22, Use of the Term "Sweepstakes"
- Article #23, No Purchase Option

  Promotions should clearly state that no purchase is required to win sweepstakes prizes. They should not represent that those who make a purchase or otherwise render consideration with their entry will have a better chance of winning or will be eligible to win more or larger prizes than those who do not make a purchase or otherwise render consideration. The method for entering without ordering should be easy to find, read, and understand. When response devices used only for entering the sweepstakes are provided, they should be as easy to find as those utilized for ordering the product or service.

11. Publishers Billing Center, White City, OR (Nonmember)

Complainant sent in concerns regarding a raft of alleged magazine subscription invoices (Notice of renewal/New Order forms) for popular magazines. Her husband is 90 years old and he received 5 offers in one day and then a sixth.

The consumer resides in a mature community and fears that elderly consumers will be targeted by this company for subscriptions never due at prices that are much higher than the actual cost directly from the magazine. Such subscriptions and renewal practices are unauthorized by the magazines.

Upon review and consideration the Committee found the following violations of the DMA Guidelines and voted to refer to publicize the matter:

- Article #1, Honesty And Clarity of Offer

  All offers should be clear, honest, and complete so that the consumer may know the exact nature of what is being offered, the price, the terms of payment (including all extra charges) and the commitment involved in the placing of an order. Before publication of an offer, marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive, or fraudulent should not be used.
• **Article #2, Accuracy And Consistency**
  Simple and consistent statements or representations of all the essential points of the offer should appear in the promotional material. The overall impression of an offer should not be contradicted by individual statements, representations, or disclaimers.

• **Article #10, Solicitation in the Guise of an Invoice or Governmental Notification**
  Offers that are likely to be mistaken for bills, invoices, or notices from public utilities or governmental agencies should not be used.

**12. Slotguard, Inc., Richardson, TX (Nonmember)**

This company provides name removal services on its site www.slotguard.com to consumers and collects consumer information without providing a detailed privacy policy statement.

Upon review and consideration, the Committee determined that Slotguard, which may be accessed by California citizens, could be collecting and using consumer information in ways that are not set forth in its current privacy policy and referred the matter to the California Office of Privacy Protection for its review.

**III. CONCLUSION**

Other issues that surfaced during this compliance period include:
(1) Continuation of the Caller ID spoofing where disreputable companies are displaying false numbers on the consumer IDs;
(2) Problems with orders where consumers paid for orders but never received the merchandise; and
(3) Privacy policies:
  • Are companies privacy policies robust enough to notify consumers what personally identifiable information (PII) is being collected and for what purposes?
  • Is relationship of brands clear to consumer?
  • Are opt-out mechanisms being provided to consumers and is the opt-out mechanism working?

To locate the list of companies not in compliance and view previous public reports see, www.dmaresponsibility.org/CompanyCompliance/

To file a complaint, you may email us at ethics@the-dma.org or contact Lisa Shosteck at lshosteck@the-dma.org.
IV. DMA Resources for Responsible Marketing:

- DMA Guidelines for Ethical Business Practices:  

- DMA’s consumer preference site for consumer name removal and modification options for mail, email, deceased name removal & caretaker requests:  
  [www.dmachoice.org](http://www.dmachoice.org)

- For the online behavioral ad program, businesses should sign up for the icon at [www.aboutads.info](http://www.aboutads.info) & consumers at [www.aboutads.info](http://www.aboutads.info) for their opt-out requests.

- To file a consumer complaint, [www.dmaresponsibility.org/ComplaintForm](http://www.dmaresponsibility.org/ComplaintForm)

- For DMA’s International Safe Harbor program for data transfer from the EU & Switzerland, [www.dmaresponsibility.org/SafeHarbor/](http://www.dmaresponsibility.org/SafeHarbor/)

- For DMA’s environmental resources for marketers, [www.dmaresponsibility.org/environment/](http://www.dmaresponsibility.org/environment/)

**Contact Us:**

For questions or comments about this report, write to:

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