# Compliance Key Findings

<table>
<thead>
<tr>
<th>ACCOUNTABILITY DEPARTMENT</th>
<th>TOP REQUEST</th>
<th>MOST USED CHANNEL</th>
<th>TOP CONCERN</th>
<th>DMA CHOICE</th>
<th>DIGITAL DEVICES</th>
<th>DIGITAL VIEWS</th>
</tr>
</thead>
</table>
| Processed over 8,500 consumer inquiries | Assist consumers with managing their marketing preferences | Most consumers contact DMA through email | Honoring consumer choice and privacy.  
- DMA Choice inquiries  
- Removing deceased family members from marketing offers  
- Assisting caregivers | Over 5 million consumers are registered on DMA Choice | 2% - 24% jump in consumers using multiple devices | 11% - 22% growth in consumers using mobile devices |

Note: This annual report is based on the data from the Accountability Department – it is not meant to provide data for the entire data & marketing ecosystem, only findings from Accountability reporting mechanisms and processes. This is distinct from Ethics Policy which reviews the policies and political matters to ensure the DMA Guidelines are in line with current practices. Ethics Policy has been primarily focused on emerging issues (IoT, digital ad ecosystem, Data 2.0).
Executive Summary

This report details the important work of the Data & Marketing Association’s ethics and compliance department from January through December of 2016.

The Data & Marketing Association’s ethics and self-regulatory program preserves and protects the entire marketing community’s ability to capture, use and refine data to delight and inform consumers.

Clearly, this has an impact.

Absent industry self-regulation, entire business models would change overnight and legitimate, time-honored marketing practices — and growth in ROI — would be significantly curtailed.

In fact, we believe that self-regulation is always the better choice over government regulation of marketing. It is a key pillar of what we do at DMA each day as mapped in this annual report.

The challenge is daunting as innovation is driving new techniques and changes, but progress is being made in two ways.

First, we work on a daily basis with consumers to help them understand legitimate marketing and fundraising efforts and to report fraudulent activity.

Second, we work with companies and organizations to ensure they are aware of and follow industry ethics and guidelines so that consumers can trust the process and to ensure accountability is occurring. We take consumer concerns seriously.

In fact, for over 60 years, DMA has crafted and enforced strong industry self-regulation in partnership with our members. Self-regulation ensures that DMA members – whether they are marketers or the business partners that support them – can responsibly capture, process and refine detailed data to innovate marketing practices and technologies that benefit their customers and grow our economy.
Executive Summary

Compliance Snapshot: January – December 2016

Over the past year, DMA has processed thousands of inquiries and worked on specific instances of bad marketing practices. See highlights below:

- Consumer Complaints: 8,549
- Digital Ad Complaints: 491
- Ethics Committee (Casework) Meetings: 6
- Cases Reviewed: 38
- Cases Resolved: 18
  - 13 currently pending
  - 3 tabled
- Companies to be publicly listed on DMA website: 4

Upcoming Data Standards:

Recognizing the pace of industry innovation in technologies and techniques, DMA is 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 – reflects current innovations in the marketplace in terms of technological advancements and uses of data that balance consumer needs and protections with the need to innovate and compete.

In a comprehensive fashion, Data Standards 2.0 will tackle new high profile and emergent data issues, such as “on-boarding” of offline data; use of television viewing data; information service provider transparency; and more.

Oracle, Facebook, Google, IBM, American Express, Visa, Warner Brothers, Axiom, Epsilon, Experian, Nielsen, Comcast, PCH, L brands, Hearst, MediaMath, and TimeWarner are examples of the industry-leading companies who are engaged in this important data and marketing initiative.

The ethics and compliance work detailed in this report would not be possible without the members of the DMA Ethics Operating Committee and the DMA Ethics Policy Committee, who contribute their time and expertise to shape and enforce these guidelines.

The chairs and members of these committees are featured on page 6 of the report, and they are to be congratulated for their dedicated efforts to sustain and advance self-regulation and compliance.

For questions, please contact:

- DMA General Counsel
  Xenia (Senny) Boone
  sboone@thedma.org

- DMA Accountability
  Managing Consultant
  Lisa Brown Shostecck
  lshostecck@thedma.org
Compliance Snapshot 2016

8,459
Consumer Inquiries

90%
Companies in Compliance

491
Digital Ad Inquiries

6
Committee Meetings

38
Cases Reviewed

18
Cases Resolved

4
Non-Compliant Companies Listed

PLEASE NOTE: The DMA Accountability Office moved and as a result, a percentage of inquiries were delayed until January, 2017 as we transitioned between offices. “Committee” means the DMA Ethics Operating Committee which meets every other month to review and mediate pending and new cases.
Our work is not possible without the dedicated leadership of our two Ethics Committees and Board Liaisons.

**Ethics, Standards & Guidelines Committee**

- **Bill Bond**
  Director, Membership Analytics
  Environmental Defense Fund
- **Garry M. Brown**
  VP of Public & Government Affairs
  Highlights for Children
- **Dennis Dayman**
  CIPP/US, CIPP/E, CIPT
  Chief Privacy and Security Officer
  Return Path
- **Jeanie Green**
  VP NFP
  Epsilon Data Solutions
- **James Insigna**
  1-800-Flowers.com
- **Helen Mac Murray (VICE CHAIR)**
  Partner
  Mac Murray, Peterson and Shuster
- **Judy Macior (CHAIR)**
  VP Compliance
  Experian
- **Pegg Nadler**
  Pegg Nadler Associates
- **Len Shneyder**
  VP Industry Relations
  SendGrid
- **Diane Tancredi**
  Vice President
  Mediapeople.com
- **Sal Tripi**
  Publishers Clearing House
- **Aaron Weber**
  Communications Specialist
  American Student Assistance
- **Rick Witsell**
  VP Marketing & Compliance
  Alliant

**Committee on Ethical Business Practice Enforcement**

- **Jordan Abbott**
  Axiom Compliance Attorney
  Axiom
- **Rick Buck (VICE CHAIR)**
  Head of Privacy
  Zeta Global
- **Chris Irving**
  Assistant VP, Consumer & Legal Affairs
  Publishers Clearing House
- **Jackie Kern**
  Managing Director
  Main Street Direct
- **Alex Krylov**
  Privacy & Compliance Lead
  Experian
- **Robert Reger**
  SVP Data Solutions
  Epsilon
- **Susan Stashower (CHAIR)**
  VP Brand Management
  American Express
- **Teressa Johnson**
  Direct Market Compliance & Operations Specialist
  Health Care Service Corporation
- **Colleen Sugarman**
  General Manager, Direct Marketing
  Sling TV
- **John Tighe**
  Senior Business Leader
  MasterCard Solutions

**DMA Board Liaisons**

- **JoAnne Monfradi Dunn**
  President & CEO
  Alliant
- **Moses Foster**
  President & CEO
  West Cary Group
Compliance Key Findings

Highlights of Consumer Complaints and Inquiries Regarding Marketing Practices
Consumer & Business Ethical Inquiries

Received by Channel

- **Mail**: 940 (11%)
- **Phone**: 1,966 (23%)
- **Email**: 5,643 (66%)

We break this down by channel since it measures where the inquiry began & which complaint process was triggered based on the marketing channel, the offer or complaint, the method of resolution.

- For complaints regarding the mail channel, we review the consumer choices provided and the use of mail suppression tools.
- For the calls, if a call was received by a consumer, we review the matter with regards to current rules and the FTC requirements for the national do-not-call list registry.
- For email issues, we review concerns under the CAN-SPAM rules, DMA guidelines and best practices for email marketing.
## DMA Choice Inquiries
### By Program

<table>
<thead>
<tr>
<th>Program</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>DNCC – Do Not Contact for Caretakers</td>
<td>72</td>
</tr>
<tr>
<td>Multiple Services</td>
<td>76</td>
</tr>
<tr>
<td>TPS</td>
<td>Telephone Preference Service</td>
</tr>
<tr>
<td>eMPS</td>
<td>Email Preference Service</td>
</tr>
<tr>
<td>DDNC</td>
<td>Deceased Do Not Call</td>
</tr>
<tr>
<td>MPS</td>
<td>Mail Preference Service</td>
</tr>
</tbody>
</table>

DMA provides multiple preference lists to assist companies in honoring and consumers in managing marketing preferences across the various marketing channels.

Even though there’s been a tremendous growth and innovation in the digital marketplace, staff still receives the most inquiries from consumers who are seeking more control over the types and volume of promotional mail and catalogs they receive.

DMA Accountability team has also seen an uptick in consumers seeking assistance in removing deceased family members from marketing lists. This is the most sensitive name removal request—companies should ensure that they have in-place an internal suppression process and that the front-line customer service representatives are properly trained on protocol.

Staff recommends that you provide in your privacy policy a clear point of company contact for consumers who wish to reach you regarding their marketing preferences.
## Consumers Registered on DMA Choice Preference Services Registrants

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caregiver List</td>
<td>52,940</td>
</tr>
<tr>
<td>DDNC – Deceased Do Not Contact</td>
<td>370,891</td>
</tr>
<tr>
<td>eMPS – Email Preference Service</td>
<td>796,810</td>
</tr>
<tr>
<td>TPS – Telephone Preference Service</td>
<td>2,947,375</td>
</tr>
<tr>
<td>MPS – Mail Preference Service</td>
<td>4,605,994</td>
</tr>
<tr>
<td>MPS (includes caretaker and DDNC)</td>
<td>5,029,825</td>
</tr>
<tr>
<td>eMPS (includes official states of WY and PA DNC lists, caretaker and deceased telephone numbers)</td>
<td>796,810</td>
</tr>
<tr>
<td>DDNC</td>
<td>370,891</td>
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<tr>
<td>Caregiver</td>
<td>52,940</td>
</tr>
<tr>
<td>TPS</td>
<td>2,947,375</td>
</tr>
<tr>
<td>WY Do not contact list</td>
<td>2,594</td>
</tr>
<tr>
<td>PA Do not contact list</td>
<td>2,856,419</td>
</tr>
<tr>
<td>Belgium MPS</td>
<td>268,568</td>
</tr>
<tr>
<td>UK MPS</td>
<td>2,791,534</td>
</tr>
</tbody>
</table>
Consumers Ethics Inquiries
Categories of Complaints

Uptick in consumers reaching out to DMA for assistance in removing deceased family members from marketing lists.

REMINDER: PASSING THE BUCK
The practice of “passing the buck” means that the company referred consumers complaining about its service or promotional mailing to DMA instead of handling the complaints internally, this is not an acceptable practice. For example, a large teleservices company included DMA’s complaint hotline on its own marketing mailing and online advertisement instead of providing an internal process for complaints from consumers. DMA received dozens of complaints as a result.

When companies refer consumers to DMA, consumers often believe DMA is the list source and that DMA can remove them from a company’s files. This is not the case. DMA cannot resolve a data issue for a company regarding its own database systems. Companies should ensure their organization has a marketing preference process in place.
Digital Interest-Based Ads

Websites and mobile applications often rely on advertising to support free or lower-cost services and content. There are two main categories of ads:

• **General ads**
  Ads that are not tailored to information associated with your activity in specific browser or mobile applications (this is known as web viewing and application use data). For example, you might see a sports equipment ad on a sports news website.

• **Interest-based ads**:
  Ads served based on your web viewing and/or application use data. These ads will often have a blue AdChoices icon present in or near the ad.

  The AdChoices icon is pictured to the left.

Companies that use IBAs as a first or third-party on one or across devices/browsers to deliver advertising, should comply with industry standard principles such as the Digital Advertising Alliance (“DAA”) industry self-regulatory Principles.

• You can find them here: [aboutads.info/principles](https://aboutads.info/principles)

  Those companies must provide appropriate notice, choice and statement of adherence to Principles. DMA has Guidelines and compliance tools to assist companies.

• You can find them here: [thedma.org/resources/compliance-resources/#digital-compliance](https://thedma.org/resources/compliance-resources/#digital-compliance)
Devices Involved in IBA Inquiries
2015 / 2016 Comparison

### Significant jump in complaints/inquiries received through IBA complaint process based on digital platform experience:

Consumers using multiple devices: **from 2% to 5%**
(Good news—consumers did not indicate former concern that they were being “followed” on multiple devices. The complaints center on just too many ads on multiple devices, or questions on how to better manage their online ad experience based on their multiple devices. Less is more for the consumer with multiple devices.)

Consumers using mobile devices **(doubled in percentage points from 11% to 22%)** – showing growing trend in usage in mobile devices – smartphones and tablets.

Drop in inquiries in consumers just using computers and laptops: 87% - 73%

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**Multiple Devices**

- **2015**:
  - 2%
  - 5%

- **2016**:
  - 6%
  - 3%

**Laptop**

- **2015**:
  - 22%
  - 11%

- **2016**:
  - 70%
  - 81%

**Mobile**

- **2015**:
  - 6%
  - 3%

- **2016**:
  - 22%
  - 11%
Digital Content Complaints
Categories of Online Inquiries

The main category of complaints is still educating consumers on the difference between general ads and interest-based/targeted ads and how to manage the latter. This includes educating consumers on how to manage their online ad choices to suit their needs.

Staff assisted hundreds of consumers to explain the different online ad choice tools available to help them control their online experiences:

- Cookie opt-out tool – for computers/laptops: http://www.aboutads.info/choices
- App opt-out tool – for mobile devices: http://youradchoices.com/appchoices

DMA also, as anticipated, received an uptick in complaints from consumers who objected to targeting of political ads due to the 2016 election campaigns.
DMA Accountability
Enforcer / Compliance

Issues and Themes:

Ad template

- Copy should match image

Dynamic pricing

- Have controls in place -- don’t change pricing too many times in one day

Placement & content of ads

- Consumers find benefit to being served ads but object to ads that block online content (news, movies, email or games)

- Consumers sensitive to being served certain types of ads (dating ads, political, adult-themed, animals)

Ad Template

If you are using ad templates -- marketers should put controls in place to ensure that the copy will match the image you will be displaying. In one case, a consumer was shopping for shoes and then received a targeted ad displaying the shoes alongside copy offering 40% off of pants.

Make sure the image will match the copy -- otherwise it could be confusing to the consumer and might be considered a deceptive ad.

Dynamic Pricing

Companies may change their online ad pricing based on a number of factors and pricing could be changed multiple times a day.

This is not an optimal consumer experience. One company changed their prices seven times in one day.

Changes in pricing can be based on past buying behavior, demographics, gender and income.

We have seen some consumers having problems with online prices being honored because it can be hard for companies to keep track of their own price changes.

This can lead to compliance concerns and consumers no longer interested in the online experience offers.

Online Ad Placement, Content

While consumers find benefit to being served relevant online ads, they are unhappy when the ads block content (news, games, email, movies).

They also don’t appreciate being served ads that don’t reflect their interests (dating, political, adult-themed ads and animals).

Our Member Principles ask that organizations be responsive to consumer needs and marketing preferences.
Looking to 2017
Emerging Trends and DMA Solutions

Cross-device Data
The IBA complaint process has shown the number of consumers using multiple devices is trending upwards – from 2% in the previous reporting period to 5% in this reporting period.

DMA addressed this by using a two-prong approach – industry and consumer education:
- Co-presented webinar with DAA to educate industry on cross-device compliance / enforcement requirements
- Developing industry compliance fact sheet on cross device – privacy notice and choice requirements and DMA’s enforcement beginning in Feb. 2017
- Developing consumer fact sheet on how consumers can manage IBA opt-outs for multiple devices
- Creating an IBA complaint form for multiple devices.

Mobile Engagement Shift
As we’ve seen over the past year through our IBA complaint process – the number of consumers using mobile devices has doubled from 11% to 22%.

DMA will continue in its efforts to educate consumers on the different industry opt-out tools – these are available depending on device used – such as DAA’s app out-out for mobile devices.

We will continue to handle and address inquiries and complaints through our ethics complaint process – staff and Ethics Operating Committee complaint referral or resolution.

Ad Fraud / Ad Blockers
Increase in fraudulent online ad offers. Answer is not ad blockers – this will have a greater impact on legitimate and responsible ad service providers and brands. Key is compliance – adherence to standard industry principles of notice, choice and enforcement. Online ads are key component to a thriving digital ecosystem at no added cost to a consumer.

DMA staff and our Ethics Operating Committee will address and resolve consumer inquiries and will refer to appropriate authorities (FTC, FCC, State Attorney Generals) when appropriate - company is not responsive or found to be out of compliance.

<table>
<thead>
<tr>
<th>EMERGING ISSUES</th>
<th>DMA SOLUTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opportunity &amp; expansion of Cross-Device Data</td>
<td>Company and consumer education on 2017 Cross-device notice and choice enforcement</td>
</tr>
<tr>
<td>Consumer mobile engagement shift</td>
<td>Educator and enforcer of mobile IBA app notice and choice</td>
</tr>
<tr>
<td>Ad fraud countered with “ad blockers”</td>
<td>Educator and enforcer of adherence to DAA’s IBA principles</td>
</tr>
</tbody>
</table>
Ethics Committee Casework

Committee Highlights – Regulating DMA Guidelines & Related Concerns
DMA’s Ethics Operating Committee

Background and Process

To review and investigate consumer complaints in light of DMA Guidelines.

Committee strives to:

• educate companies on good business practices;
• increase consumer protection in the marketplace by resolving consumer complaints

Proceedings are confidential – cases are only publicized when the Committee finds a company to be out of compliance with DMA Guidelines.

Actions & Enforcements

Companies that do not comply with Committee’s requests for information face:

• DMA censure; membership suspension or expulsion
• Referral to appropriate regulatory body and/or law enforcement*
• Publicity for non-compliance*

*Members & Non-members

DMA Committees

DMA has two Board-level ethics committees: the Ethics Policy Committee, and the Ethics Operating Committee. Each is comprised of experienced marketers seeking to advance data-driven marketing ethics and accountability.

DMA Ethics Policy Committee:

• Led by marketing practitioners.
• Meets 4-6 times annually to review matters impacting marketing ethics.
• Reviews 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 review by the Board of Directors.
• Provides training to members through webinars, DMA events, toolkits and white papers
• Guides and advises DMA staff on key practices and their impact on marketing and ethics.

Committee on Ethical Business Practice/“Ethics Operating”:

• Peer Review
• Meets 5-6 times annually to review casework brought to DMA by consumer and member complaints. Meetings are confidential.
• Reviews practices that may violate our self-regulatory ethics guidelines.
• Cases come form staff monitoring, members, consumers, groups.
• Works with members/nonmembers to correct practices, solve issues and build trust in the process.
• Cooperation is voluntary. We find most companies work with us.
• If company doesn’t cooperate and is a member, Committee refers them to DMA Board for censure, suspension, or DMA expulsion.
• If company does not cooperate and is not a member, Committee may refer case to law enforcement (and there is publicity of noncompliant members and nonmembers).
Compliance Snapshot 2016

6
Committee Meetings

38
Cases Reviewed

18
Cases resolved
- 13 pending cases and 3 tabled

4
Non-Compliant Companies Listed

Committee Meetings are held on a bi-monthly basis. The DMA Ethics Committees are comprised of dedicated and hard-working volunteers from our member companies and they are Board approved positions.

Cases are actionable complaints submitted by consumers, members, non-members, Board and other sources.

Cases are reviewed first by staff for resolution, or referred immediately to the Committee for its review at its next meeting.

Cases Resolved are cases that are considered to be resolved upon review of the potential guideline violations and consumer concerns and through communications process with the company to resolve the matter. There is no public reporting since the company is cooperating through a confidential review process.

Non-Compliant Companies are those who have not responded to Committee inquiries and/or have not resolved the matters under review.
Main Issues Reviewed by the Committee

The list below provides a highlight of the issues raised in the past year.

- Honesty & Clarity of the Offer
- Honoring Consumers’ Marketing Preferences (mail & email)
- Sweepstakes Compliance
- Advanced Consent Marketing Compliance
- HIPAA Compliance (health information)
- Charitable Telemarketing Practices
- B2B Terms & Conditions
- Poor Customer Service
- Interest-Based Advertising (IBA) Compliance
- Online Privacy Policy & Data Collection, Transfer & Use
- Online Ad Search; Prices/Promotions
# Failure to Correct

Companies referred to federal/state authorities based on findings

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>The Learning Annex</th>
<th>Auto Services Agency</th>
<th>Life Giving Moments</th>
<th>Tea Party Guard</th>
</tr>
</thead>
</table>
| ISSUE   | • Promotional offer to attend seminar “looks” like formal invitation  
          • Event sponsor not identified  
          • Refuses to honor “Do Not Mail” request | • Warranty offer – “looks” like bill or notification from DMV when it’s a promotional offer | • “Charitable organization” calling people on the Do Not Call list  
          • Intent is to poll or sell | • No valid means for consumer to contact with marketing preferences  
          • No response from organization |
| GUIDELINES VIOLATION | #1 Honesty & Clarity  
                      #2 Accuracy, Consistency  
                      #3 Clarity  
                      #4 Actual Conditions  
                      #8 Disclosure of Sponsor & Intent  
                      #9 Accessibility  
                      #31 Honoring Consumer Choice | #1 Honesty & Clarity  
                      #8 Disclosure of Sponsor & Intent  
                      #10 Solicitation in Guise of Invoice / Government Notification | #1 Honesty & Clarity  
                      #8 Disclosure of Sponsor & Intent  
                      #47 Restricted Contacts | #9 Accessibility  
                      #31 Providing Privacy Notice, Consumer Choice and Processing of Choice |

No web presence or logo available.
DMA Accountability Resources

DMA GUIDELINES

• DMA Guidelines for Ethical Best Practice: theDMA.org/Guidelines
• DMA Data Standards 2.0: theDMA.org/DataStandards

INDUSTRY COMPLIANCE RESOURCES

• DMA Ethics and Compliance Resources: theDMA.org/ComplianceResources

CONSUMER COMPLIANCE RESOURCES

• DMA Consumer Help: theDMA.org/ConsumerHelp
• DMA Choice — consumer mail management service: theDMA.org/ConsumerChoice

TO FILE A COMPLAINT

• DMA Complaint Services: theDMA.org/FileComplaint

CONTACT US

• DMA Accountability
  225 Reinekers Lane, Suite 325
  Alexandria, VA 22314

• ethics@theDMA.org