



The Direct Marketing
Commission

Enforcing Higher Industry Standards

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This is a limited response from the Direct Marketing Commission to the ICO Call for Views on the Direct Marketing Code.

The DMC is the body that gives effect to the DMA Code of Practice. We are the self-regulatory agency set up by the DMA to consider complaints against member companies.

The DMA Code can be found at https://dma.org.uk/uploads/misc/5b02a222ba136-dma-code-booklet-2018--v1.1_5b02a222ba09a.pdf.

The DMC site, including an explanation of our investigative and adjudicatory procedures can be found at www.dmcommission.com.

The DMC seeks always to work in conjunction with the ICO. We would hope, generally, to be able to address possible issue of non-compliance to prevent harm and to reduce the pressures on statutory regulators. There have been occasions when a DMC adjudication preceded or was in parallel to an ICO action. This reflects our wish to act promptly if harm may exist and to support the DMA work to maintain high standards across the membership.

Questions 10 and 11: Case Studies and other suggestions

At this point in your work we do not propose to offer views on all of the questions raised. We did, however, wish to ensure those involved were aware of our relationship with the DMA, our track record on interventions to secure compliance and corrective actions, and our readiness to call on the DMA to expel members whose conduct is materially at odds with the principles in the DMA Code.

We did think, therefore, that the ICO might find our procedures and decision taking mechanisms of some help as an external point of reference. The ICO is increasingly involved in cases with commercial and charitable entities where fines and reputational damage can be significant. In similar circumstances, but absent of any power to fine, we have found benefit in paying a particular focus on the checks and balances needed to ensure natural justice in our procedures and our decisions.

This matters. The DMA/DMC have an Independent Appeals Commissioner as part of these natural justice arrangements and the DMC seeks to follow clear simple practices to minimise the risk that a member has grounds to appeal a finding or a sanction.

We do not suggest these arrangements could not be improved upon and developed further, but we believe they are proportionate to the issues we are called upon to address, while robust enough to assure third parties of our seriousness, thoroughness and objectivity. We understand the ICO has parallel and broader provisions but think it helpful to flag these issues of natural justice as ones of growing significance if new powers are to be deployed.



Extended value-chains

A recurring issue for the DMC and, we are sure for the ICO too, is the existence of sometimes lengthy and opaque 'value-chains' in relation to data sources. It has sometimes been difficult or impossible to identify the original source of some data and related consents as information is traded before use in some marketing activity.

Recent legislation seeks to address and minimise issues over marketing without such consent or a legitimate reason for the activity. We recognise too the argument that the marketing entity responsible for a campaign has a clear responsibility for the legitimacy of that campaign. We also understand the challenges if regulatory procedures leave agencies down on the lower reaches of value-chains with the risk such work will be inconclusive. Our question, going forward, is whether the ICO may see a need to articulate its approach to data sources and satisfy itself this is in line with the principles of natural justice touched on above.

Questions 12, 13,14

Q 12 We respond as an 'other' body.

Q 13 The Direct Marketing Commission is a self-regulatory body supporting the Direct Marketing Association. We are a not-for-profit entity operating as a company limited by guarantee.

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