



Report on Ethics Committee Findings

January – May 2008

The Committee on Ethical Business Practice heard 19 cases:

- 11 regarding general advertising and business practices**
- 6 regarding the use of information about consumers**
- 2 regarding teleservices issues**

In addition to the 19 in-depth cases (involving 24 organizations), DMA corporate responsibility staff handled 3,385 complaints and inquiries from consumers who needed assistance with: reducing their overall volume of unwanted solicitations; having their names removed from lists of specific marketers; or with marketing transactions.

The Committee on Ethical Business Practice announced that two organizations, *Hospitaller Brothers of St. John of God* (Westville, NJ) and *Judicial Watch* (Washington, DC), did not resolve the Committee's concerns that donors/contributors were not notified that information about them would be made available to others for solicitation purposes. Both organizations made their lists available to other organizations, but did not provide notice to donors/contributors, as required by DMA's Guidelines for Ethical Business Practice. Neither organization is a current DMA or Nonprofit Federation member.

Cases reviewed during this period were generally in the following three areas:

1) Allegations that direct marketing offers (either online or offline) were deceptive or misleading, including:

- overall lack of clarity in advertising;
- misleading envelope copy;
- misuse of the term "free" in ongoing marketing programs;
- solicitations that appeared to be invoices for products already ordered; and
- misleading header and other information in email solicitations

Most of the cases were successfully resolved by the contacted companies revising or discontinuing the questioned promotions. Four of the cases were not viewed as violating the ethics guidelines.

The Committee heard five cases in which consumers are introduced to a series of continuing products or services by use of an initial free product or free trial offer. Such

marketing plans are legitimate and serve many consumers' needs as long as they follow DMA guidelines (and applicable laws). Specifically, these essential principles apply:

- Marketers should have the consumer's informed consent before the consumer is billed or charged.
- Marketers can provide both products or services and bills at the same time, but consumers should not be obligated to pay bills prior to the expiration of any trial period.
- Marketers should inform consumers in the initial offer and in renewal reminders of their right to cancel their participation in the plan.
- Marketers should provide renewal reminders at the frequency specified in the initial offer (and should allow reasonable time between receipt of renewal reminders and the renewal date).
- Marketers should promptly honor requests for refunds due upon consumers' cancellation of the plan.

Most importantly, material terms and conditions should always be clearly and conspicuously disclosed before obtaining consumers' consent. Following these guidelines will go a long way toward avoiding situations in which consumers claim they received unsolicited merchandise – along with bills or dunning notices.

2) Cases related to the use of marketing data. The Committee reviewed six cases in which the companies or nonprofit organizations allegedly did not adhere to the following privacy guidelines:

- providing notice to their customers or donors of their policies concerning transferring names to other marketers;
- honoring consumer requests to have their names removed from mailing lists; and/or
- adequately responding to consumers' requests for the source of mailings

The majority of those contacted informed the Committee that they have policies and procedures in place for providing notice to customers or donors about the transfer of information to others for marketing purposes. Those contacted about providing the source of information to consumers upon request explained that they have policies and procedures in place to comply with this guideline, but that staff may need additional training to handle such requests properly.

Additionally the Committee reviewed the websites of two services that offer to remove consumers' names from mailing lists. The Committee, concerned about raising false expectations with consumers, took the following actions:

- questioned claims made as to the effectiveness of the services, and/or
- asked for corrections regarding misstatements made about DMA's services

One of the cases was closed after the Committee's concerns about the service's description were resolved; the other remains pending further action.

3) The two cases regarding teleservices issues involved:

- allegations by consumers that harassing calls were received even after requesting name removal from the marketers' calling lists; and
- allegations of overriding the federal Do Not Call law by adding disclosure language, in a promotional offer, to the effect that consumers could be called even if their numbers were registered with the federal Do Not Call list

The Committee ruled in the first case that the calls were debt-collection matters and not within its scope. The second case was closed after the marketer represented that it provided clear disclosures on the promotional offer.

DMA handles ethics complaints about member and non-member marketers, comparing marketers' practices to the DMA's ethics guidelines and asking them to come into compliance. Members who don't comply with the requests of the Committee face DMA Board public censure, suspension, or expulsion. Organizations that don't cooperate are referred to law enforcement agencies, if applicable, and their cases are publicized.

Resources include the following:

- DMA's *Guidelines for Ethical Business Practice*:
www.dmaresponsibility.org/Guidelines/
- *Do the Right Thing* explanatory guide that accompanies the Guidelines:
<http://www.dmaresponsibility.org/DoTheRightThing/>
- Report on Ethics Committee findings are archived at:
<http://www.dmaresponsibility.org/CaseReport/> and further information about DMA's ethics committees is at:
<http://www.dmaresponsibility.org/Committee/>
- DMA's consumer site, offering name-removal and modification options, is at
www.DMAchoice.org
- To file a complaint with the Committee on Ethical Business Practice, write to:
ethics@the-dma.org, or use the online form at:
<http://www.dmaresponsibility.org/ComplaintForm/>