



## Report on Actions of the DMA's Ethics Committees

January - March 2006

The Committee on Ethical Business Practice reported that one company failed to cooperate with the Committee during this period toward reaching an appropriate complaint resolution. *ExpressCameras.com of Edison, NJ, initially responded to the Committee's requests for substantiation of its advertising practices and of its shipping and handling charges, but did not make requested changes. The Committee viewed the company's advertising as unclear, and its shipping and handling charges as not bearing a reasonable relationship to actual costs incurred. The matter was referred to the Federal Trade Commission for its review. ExpressCameras.com is not a DMA member.*

### 23 cases heard by the Ethics Committees:

- 7 – general advertising, including off and online promotions & practices
- 5 – telemarketing practices
- 11 – collection, use and maintenance of marketing data

### *Primary Issues of Concern Based on Current Case Load:*

1) Direct marketers should honor consumers' requests for name-suppression and should disclose the source from which they obtained information about consumers (upon request).

- Marketers should make sure they maintain in-house suppression lists for their prospect mailings. Such lists prevent consumers from hearing from marketers again if they do not wish to. Additionally, marketers should not, upon customer request, transfer customer information to third parties for marketing purposes.
- Marketers should be upfront in telling consumers the source of their name on a specific list and should not enter into contracts that would prohibit this.
- Marketers should not refer consumers to DMA for name-removal when consumers have only requested removal from their own lists. (They can refer consumers to DMA's Mail Preference Service if consumers indicate they want name removal from most national lists.)

2) Privacy policies posted on a marketer's Web site should clearly indicate whether they apply to online practices only or whether they include offline practices as well.

- Because companies' policies can be different according to medium, it is important to explain them to consumers clearly, including how to opt out of future communications.
- The FTC has noted that unless a company's online privacy policy specifically states that the policy only applies to online marketing, its view is that the policy would apply to all media.

**3) Mailings that look like they are from a government agency should not be used.**

- Consumer trust in direct marketing is not enhanced by consumers feeling like they were fooled by a promotion that disguised itself as a government mailing.
- Uses of terms commonly used on government forms, and formatting promotions in a manner similar to the government may result in confusion or deception.

**4) Direct marketers should not use name-removal lists for purposes other than the purpose for which they were established, specifically, prevention of future communications.**

- DMA believes it violates the spirit of a Do Not Call list, for example, for the list to be used for mailing to the consumers on the list.

**5) Offers (in any media) should not hide important facts consumers need to consider before acceptance.**

- "Free" offers should not have excessive obligations that are difficult for consumers to fulfill.
- Disclosures explaining details of such offers must be easy to find, read, understand, and act upon.

**6) Marketers should not send text messages or place calls to cell phones without affirmative consent from consumers.**

- Such actions are illegal, and could certainly be seen as harmful to the development of any acceptable marketing programs involving mobile phones.

In addition to the 23 in-depth case reviews, DMA ethics and consumer affairs staff handled 907 complaints and inquiries from consumers who needed assistance with reducing their overall volume of unwanted mail, telephone calls and e-mail; having their names removed from lists of specific marketers; or with marketing transactions. Ten member companies, randomly selected, were asked to certify their continued compliance with DMA's Privacy Promise.

- DMA's Guidelines for Ethical Business Practice can be found at <http://www.the-dma.org/guidelines/EthicsGuidelines.pdf>.
- Further information about DMA's Ethics Committees is available at <http://www.the-dma.org/guidelines/ethicalbusinesscommittee.shtml>. 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 Committees face referral to law enforcement agencies,

where appropriate, as well as DMA Board public censure, suspension, or expulsion. Non-members that don't cooperate are referred to law enforcement agencies, if applicable, and their cases are publicized.

- To file a complaint with the Ethics Committees, write to [ethics@the-dma.org](mailto:ethics@the-dma.org), or use the online form at <http://www.the-dma.org/guidelines/ethicscomplaintform.pdf>.