**MINUTES**

**DATA & MARKETING COMMISSION BOARD**

**Wednesday 22nd May 2024 at 10.30am**

**DMA offices, Rapier House, Lamb’s Conduit Street, London**

**Present:**

Emma Martins, Chief Commissioner (EM)

Quinton Quayle, Independent Commissioner (QQ)

Kate Staples, Independent Commissioner (KS)

Gilbert Hill, Industry Commissioner (GH)

Robert Bond, Industry Commissioner (RB)

**In Attendance:**

Suzi Higman, DMC Secretary (SH)

Mike Lordan, DMA Director of External Affairs (ML)

Chris Combemale, CEO, DMA – in part (CC)

1. **Welcome and apologies**

There were no apologies.

1. **Minutes of last Meeting + Matters Arising**
2. **Minutes of 7th February and Action Points**

SH had circulated a copy of the last minutes and these were approved. All action points had been actioned or were in progression.

EM was to re-write the DMC’s website Privacy Policy and would also review the DMA’s privacy policy to ensure there were no inconsistencies v the DMC policy.

With reference to technical concerns reported on the DMC website, SH reported that a disclaimer had been added to the website complaints form to ask consumers not to add any personal sensitive information and the DMA IT team had assured the DMC that there were no technical problems in relation to cookie drops. GH confirmed that he would run a further Ghostery scan and SH would share with him the DMA’s IT technical response to their inspection.

EM noted that whilst the DMC logo strapline (enforcing higher industry standards) had been removed, the wording was repeated further on in the home page. SH would ensure this was removed asap.

**Action Points:**

* **EM to re-write DMC Privacy Policy on website.**
* **SH to send GH the DMA IT opinion on DMC website cookies. GH to run further Ghostery scan.**
* **SH to ensure removal of remaining wording (enforcing higher industry standards) from DMC website.**

1. **Independence + Impartiality + Funding Risk**

**[Conflicts of Interest declarations + DMC Risk Register(internal)/Code Risk Monitoring Register]**

No conflicts of interest were declared. The latest DMC Risk Register had been agreed and updated by the DMC’s working party. These Registers would be on the agenda and reviewed at every Board meeting.

1. **Complaints** – **February-April**

SH had circulated a summary of complaints from the above period. A recent investigation around the structure of an unaddressed opt-out service and continuing receipt of unaddressed mail as reported at the last Board meeting had been resolved. EM noted that the complainant had initially made his complaint in writing to the DMC’s registered office address but that it had not been received by the Secretariat. SH agreed to look into this.

There had been several complaints against non-DMA members. EM thought the DMC’s current capacity to help consumers who were complaining about non-members was useful and it highlighted the difficulty consumers have in knowing which organisations to complain to. It was agreed that to have an infographic on the DMC’s new website would be a helpful tool to direct consumers to the correct place to complain. GH thought this would also help flag up the DMC on Google searches.

SH reported on follow up materials required from a member following an investigation. Whilst some helpful materials had been received, there remained a template agreement outstanding which would be available once the member had completed a migration of its systems. The member had confirmed that they were no longer using the services of the affiliate company in question during the investigation. SH agreed to revert to the member to note the DMC’s disappointment in that the concluding materials and responses had not been expedited sooner.

**Action Point:**

* **SH to revert to member as above.**

SH was to follow up a complaint against a non-member from a consumer who had received a number of unwanted postal marketing letters addressed to different individuals who were not resident at her address. The consumer had been provided with online information on the brand’s website on how to stop marketing which suggested consumers contact their local store. EM suggested that the Secretariat follow this up to find out whether this approach had been successful.

**Action Point:**

* **SH to liaise with complainant as above.**

1. **IMB application/GDPR Code of Conduct – update:**
2. **GDPR Code: Chris Combemale, DMA CEO update**

CC updated the Board on progress of the DPDI legislation – it was hoped that this would be approved by the Summer Recess beginning mid-July. However, there was some peer skepticism as well as some outstanding political issues particularly relating to the protection of children and online safety and there were remaining discussions on the electoral register. If the legislation was not agreed before the Summer Recess there was a potential issue in that after that point there was only around four weeks of government time available before a likely election. The DMA’s Director of Legal Affairs and CC were however working on the latest draft submission of the GDPR Code of Conduct, to take into account DPDI legislation and the impact of the Experian case and interpretation. It was hoped to submit the Code to the ICO informally by the end of May. There would normally be 6-8 weeks allowed for feed-back but the ICO may not wish to provide this until legislation had passed. CC would like to run the first informal consultation over the Summer with key stakeholders as a forerunner to see if there are changes required. After the final version, a consumer consultation would be required before submitting the Code formally. This consultation may be delivered to consumers via the preference service websites and DMC website.

There will be three tranches of lead time for companies to comply with the legislation. Some will come into effect straight away, i.e. two months after Royal Assent. This is likely to include the DMA’s Code and PECR. The second tranche would be six months later, giving companies time to prepare guidance and a final tranche within 12 months.

1. **Transition timeframe/gap analysis**

EM reported that this had been on pause whilst there had been a high degree of uncertainty over the progress of legislation. However, it was now possible to move forward and SD had produced a draft project plan. SH had prepared a summary of items to be completed for the DMC application and had highlighted which items were in progress, which were outstanding, the requirements for project commencement and what DMA input was required. SD had produced a fuller draft overall project plan which in would in due course have a timeline attached. EM would meet with CC once the final draft plan was agreed with a view to having a fuller conversation around the transition period and finances. CC had confirmed that it was up to the DMC to decide when it was able to be up and running.

SH pointed out that there could still be delays given personnel change at the ICO as well as the need for ICO guidance to be prepared.

All thought the draft project plan was a good start and at this stage did not need to include dates, but it would be helpful to see an overview of dependencies and how long each item was likely to take. It was important for the project plan to cover every piece of work which will be needed – including insurance cover, amendments to the Articles etc. It was agreed that the work flow could be clearer, and a Gant chart may work best. SH would meet with EM before any further work was carried out by SD and a further draft would be circulated as soon as possible.

**Action Point:**

* **SH to meet with EM to discuss draft project plan and feed back to Simon Davey. The plan will then be circulated to the Commissioners for comment before EM meets with CC.**

1. **Compliance and Monitoring Assessments – update**

Work on this had temporarily stopped whilst waiting for more certainty on legislation amendments. However, this could now resume. EM and SH had also met with ABC’s Commercial Director, Jan Pitt, to discuss drafting a contract but until financials had been agreed this would only be a template at this stage. The DMA’s Maggie Frost and ML would help with this. SH reported that an updated Letter of Intent had been signed by EM and ABC.

1. **Policy on Publication of Adjudications**

SH explained that there had been a previous policy (currently enshrined in the DMA Code) that adjudication statements would be made public on the DMC website whether or not breaches were upheld following a formal investigation and adjudication. EM had suggested that in future only statements following a finding of a breach should be published. It was agreed that this needed further discussion and SH and EM would look at this further. There were challenges if a business resigned membership during a formal investigation and the Board discussed whether the adjudication could continue and if not, whether a statement would then be published in any event. It was noted that the ICO will now publish on the finding of a breach.

SH reported on a recent bid by a former member that had previously been the subject of adjudication, to re-enter DMA membership.

**Action Point:**

* **SH and EM to discuss above policy further.**

1. **Sanction assessments and checklist**

EM had reviewed the former Sanctions Checklist and scoring sheet to be completed at adjudication and this had been circulated to the Board. The Board agreed to provide feedback on this within one week of this meeting.

**Action Point:**

* **Commissioners to feedback on EM suggestions on sanctions paper.**

1. **Chief Commissioner**
2. **Commissioner fees**

The outcome of ASBOF funding had been received and the Commissioner pay changes approved alongside monies for Simon Davey’s continued support as External Consultant on the IMB project. Independent Commissioners however, would continue to be unpaid – EM said this would be reviewed once the DMC was self-funding.

1. **DMC Comms strategy/DMC Strategic Plan**

It was agreed that a working party would be helpful to kick-start the above plans. QQ, KT and GH offered to be part of this with EM. EM would keep populating the plans and send around when they looked more substantive. SH would then set a date for discussion with the working party. EM asked for sight of a copy of the DMA Comms Strategy.

**Action Points:**

* **EM to populate Comms Strategy and Strategic Plan documents. SH to then set up working party meeting.**
* **SH to ask for a copy of the DMA Comms Strategy.**

1. **DMA change of address**

The DMA had now moved to permanent offices and for financial reasons, CC had asked that DMC now used the DMA office address. CC did not think this would affect any independence required to be Monitoring Body as DMA would only sublet office space and meeting rooms to DMC – the DMC will in its future guise, be fully financially independent. Maggie Frost, DMA’s FD had produced a Board minute for EM to sign to confirm that this had been agreed by the Board. This was agreed though there was a point on the Board minute to be amended as it had stated that the Board were Directors. EM is the only Director alongside the Company Secretary, Ken Goulding.

**Action Point:**

* **EM to sign amended Board minute as above.**

1. **DMC email addresses**

It was agreed that once the DMC had moved to a new independent status it would provide DMC own email addresses.

1. **General Updates**
2. **DMA activities**

ML reported that:

* The DMA has appointed former Disney Executive, Tony Miller as DMA Chair.
* The TPS is up for renewal and going out to tender within next couple of months.

1. **DMA Governance Committee**

SH had circulated minutes of the recent meetings in January and March.

RB updated the Board on the latest Committee meeting which was largely centered around the legislative amendments. GH asked for a copy of the DMA’s draft direct marketing guidance.

**Action Point:**

* **SH to circulate a copy of the draft direct marketing guidance.**

1. **AI Working Groups**

SH had circulated minutes of recent meetings.

GH reported that he would be following up on the AI Standards Forum and a fund to prepare and up-skill regulators on AI.

1. **Any other business**

KT pointed out that the new DMC website should take into account accessibility standards – as an example, the font is too small on the current website and could be taken into account when the new website is in progress.

**Future Board Meetings 2024 – 10.30am at the DMA offices**

**Wednesday 11th September**

**Tuesday 17th December**