

25 November 2010

Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir

This letter responds to the 'questions on notice' allocated to the Australian Direct Marketing Association (ADMA) on Friday 29th October 2010 at the public hearing for 'The adequacy of protections for the privacy of Australians online'.

The 'questions on notice' requested information on how many times, since 1998, has the ADMA Code Authority required a member to give a formal apology, place corrective advertising or withdraw offending advertisements or statements, refund or provide replacement goods or services, required a member to take remedial action, sought a written undertaking that a breach will not be repeated or made a recommendation to the CEO to revoke membership.

The Committee in general and Senator Cameron in particular expressed a wish to understand how self-regulation and specifically self-regulatory codes of practice operate in practice rather than on paper.

First I wish to note the self regulatory initiatives that ADMA facilitates that operate over and above the Privacy Act 1988. These include:

- The ADMA Code of Practice, which includes obligations over and above the Privacy Act such as requiring ADMA members to advise consumers where it obtained their personal information, and is overseen by an independent Code Authority
- The ADMA Do Not Mail Service
- Deceased Individuals Register

By way of background, the ADMA Code of Practice was developed in conjunction with the Ministerial Council of Consumer Affairs (MCCA), the Australian Competition and Consumer Commission (ACCC) and business and consumer groups.

The ADMA Code of Practice, the Code Authority and the complaint handling process specified in the ADMA Code of Practice, were developed on the basis of the ACCC's Model Code of Practice.



Consistent with the Model Code of Practice an independent Code Authority was established to monitor compliance with the Code. The ADMA Code Authority is composed of equal numbers of industry and consumer representatives and is chaired by an individual from outside the direct marketing industry. Currently the ADMA Code Authority is chaired by John T D Wood. Bill Dee and Robin Brown are the Code Authority consumer representatives and Graeme Alexander and Jon Clarke represent business. The biographies of John T D Wood, Bill Dee and Robin Brown are provided as Appendix 1 of this letter.

ADMA Code of Practice complaint handling processes have been structured so as to ensure that the complaint handling process is effective and that there is sufficient recourse and transparency for consumers if issues are not properly resolved or handled.

All complaints handled under the ADMA Code of Practice are independently scrutinised by the independent Code Authority at regular quarterly meetings. In addition to this oversight mechanism the production of ADMA Code Authority Annual Reports ensures that the process remains accountable and open.

ADMA Code Authority Annual Reports list those companies against which complaints have been made. Further, detailed casework that names companies that have been subject to ADMA Code Authority scrutiny are included in Annual Reports. Examples of how companies are named are provided in Appendix 2. Detailed casework examples are included in Attachment 1.

ADMA would also like to note that the ADMA Code Authority Annual Report is circulated to relevant regulators and statutory bodies once completed including the Australian Competition and Consumer Commission, all state fair trading offices and bodies, the Telecommunications Industry Ombudsman and the Office of the Federal Privacy Commissioner.

ADMA also seeks to work closely with regulators and fair trading offices as part of the work of the Code Authority. It is not an infrequent occurrence for fair trading offices to refer consumers to ADMA to handle their complaints.

The complaint handling and escalation procedures specified in the ADMA Code of Practice are provided in Attachment 2. The complaint handling process provides an escalating scale of penalty and sanction for breaches these include:

- determining if the complaint is within the scope of the Code.
- if there is a potential breach the matter is referred to the Member who may provide evidence to demonstrate that the complaint was not a breach of the code or alternatively take action to resolve the issue with the consumer.
- if the matter is not resolved to the consumer's satisfaction then the Code Authority may request the Member to appear before a hearing of the Code Authority regarding the complaint. Based on the hearing the Code Authority may reach a decision with respect to the complaint and whether there has been a breach of the code.



- if a Member is found in breach of the Code it may impose sanctions including a recommendation to ADMA that Membership be revoked or suspended.

This approach is overwhelmingly successful with 95% or more complaints being resolved to the satisfaction of the consumer as a result of initial reporting to the Member. Since 1998 ADMA has handled 265 complaints. A full list of the nature of the complaints handled is included in Appendix 3.

To demonstrate the tone and manner in which ADMA seeks to assist individuals who make complaints responded to by Members, I include a direct excerpt from the last response received from a complainant in relation to a complaint referred to an ADMA Member under the ADMA Code of Practice.

Yes I spoke with _____ this afternoon. He talked me through the process Company X went through to ensure that such creative license with telemarketing calls isn't repeated. I thanked him for his time and explanation, and also mentioned that you/ADMA had handled my complaint thoroughly and professionally. So thank you for having followed this up, I greatly appreciate it.

ADMA also notes that the ADMA Code Authority may initiate its own investigation into a Member as well and on the basis of ongoing complaints has initiated own motion investigations into such matters as a Member's complaint handling procedures. In these instances the Code Authority has engaged with Members over systemic concerns and made recommendations for improvements to processes.

In terms of specific actions take by the ADMA Code Authority ADMA can confirm the following actions taken.

In 2006, the ADMA Code Authority investigated an unresolved complaint about a device sold by _____ where it was claimed that the device was not 'fit for purpose' and an appropriate refund had not been provided. The ADMA Code Authority concluded that the wording of the trial was misleading and contrary to the ADMA Code of Practice. Before a recommendation to revoke _____ ADMA membership could be carried out, _____ ceased to be an ADMA member. The ADMA Code Authority referred this matter to the Therapeutic Goods Administration who on 15 June 2010, after some considerable follow up by the ADMA Code Authority, removed the device from the Therapeutic Goods Register.

In 2004, the ADMA Code Authority noted an increase in the number of complaints against _____. These complaints fell into two categories – failure to heed consumer requests for no further contact and misleading advertising. The Code Authority made the decision to invite _____ to meet with the Code Authority. The Code Authority requested clarification of guidelines used by _____ implemented these changes and made modifications to future promotional mailings and marketing materials. These proceedings were reported in the ADMA Code Authority's Annual Report 2004-2005.



In 2004, the ADMA Code Authority also noted an increase in the number of complaints against [redacted]. These complaints related to failing to head the ADMA Do Not Contact Service. The Code Authority requested that [redacted] appear to explain an increase in complaints and to outline the steps that [redacted] would take to rectify this issue. [redacted] appeared in front of the Code Authority and outlined the steps that it had already taken and intended to take to reduce complaints. The ADMA Code Authority monitored complaints made against [redacted] to ensure that these actions did result in lower complaint rates.

In 2001, the ADMA Code Authority was forwarded a complaint by the NSW Department of Fair Trading regarding a consumer's claim of misleading marketing material from [redacted]. The mail piece featured a sweepstakes offer notifying the recipient that they had 'definitely won' a prize. In reviewing the marketing material the Code Authority instructed the company to pay particular attention to all material contained about the consumer's chance of success to avoid future instances of confusion. [redacted] provided examples of subsequent campaigns with areas of concern appropriately addressed.

In 2000, the ADMA Code Authority asked a member organisation called [redacted] to appear in relation to complaints about a defective face cream. Before the ADMA Code Authority could recommend revocation of ADMA Membership [redacted] withdrew its ADMA Membership.

ADMA notes that the ADMA Code of Practice has for some time provided additional and substantial privacy protections for consumers that operate over and above those specified in the *Privacy Act 1988*. The most notable is the requirement for organisations to provide the source of personal information to the consumer who has been contacted. This single initiative has resulted in 100s of Australian companies including in their procedures mechanisms to allow consumers to track where their data has been obtained. In addition where that information has not been provided 22 consumers have been able to subsequently obtain that information from the organisation by registering a complaint with ADMA.

In addition to the voluntary ADMA Code of Practice and Code Authority work undertaken by ADMA, I also wish to draw to your attention the work that we do with respect to the Do Not Mail Service. This service allows consumers to exert their preference not to receive addressed mail marketing from organisations with whom they do not have an existing relationship. Since its inception more than 422 272 individuals have placed themselves on this register.

The Do Not Mail Service also supports the registration of deceased individuals. ADMA provides this service because the marketing community does not wish to cause any additional distress by mailing marketing communications to deceased persons. To date we have 18 000 persons registered under this category.

The provision of the Do Not Mail Service which incorporates the Deceased person register is provided on a voluntary basis over and above the requirements of the Privacy Act.



Lastly in response to the other matter raised regarding the ease with which consumers can find out how to make a complaint when on the ADMA website, I can confirm that ADMA's new website has an 'Inquiries and Complaints' section on our homepage. Screenshots of ADMA's home page and our Inquiries and Complaints page are included as Appendix 4.

I trust that the information provided gives additional context to the work of the ADMA Code Authority and other self-regulatory work which is voluntarily conducted by ADMA.

Yours sincerely

Rob Edwards
Chief Executive Officer



Appendix 1

Chairman: John Wood

John Wood brings extensive consumer affairs experience to his position as Chair of ADMA's Code Authority. He runs his own consultancy, specialising in complaints handling, corruption prevention, ombudsman schemes, consumer affairs and customer service charters both in Australia and internationally.

Previously, John was the Deputy Commonwealth Ombudsman and managed the organisation's quality assurance, policy, public affairs and major project activities. He was a member of the Government's Task Force on Customer Service Charters and provided advice to agencies on internal complaint handling systems, service charters and client service practices. John also provided advice to a number of international delegations that were interested in Ombudsman duties or related developments.

From 1984 to 1994 John held the position of Director of the Federal Bureau of Consumer Affairs where he advised the Federal Government as well as establishing credibility and good working relations with Federal, State and Territory agencies, industry and the consumer movement.

He is a former President of the Society of Consumer Affairs Professionals in Business (SOCAP), a Life Member of the Australian Consumers' Association, and was a former Chair of the Consumer Advisory Panel to the Australian Securities and Investments Commission.



Consumer Representative: Bill Dee

A consultant who specialises in the areas of compliance, dispute management, customer service and consumer affairs, Bill Dee has extensive experience in industry codes and self-regulation.

In over 20 years at the Australian Competition and Consumer Commission, Bill gained wide experience in the area of regulatory compliance. He was one of the architects of the Australian Standard on Compliance Programs and was also particularly active in codes of conduct and other self-regulatory initiatives and disputes management.

Bill drafted the ACCC's Guide on codes and various other industry codes.

For his work in developing innovative self-regulatory industry practices to strengthen the competitiveness of the Australian economy and to protect consumers, Bill was presented with an Australia Day Award by the Commonwealth Government in 1998.



Consumer Representative: Robin Brown

Robin Brown brings 25 years of experience in consumer and business regulatory affairs to ADMA's Code Authority with considerable experience in complaint handling and dispute resolution.

He spent 10 years as the chair and chief executive of Australia's national consumer body, the Australian Federation of Consumer Organisations. He also spent five years as an associate member of the board of the Australian Telecommunications Authority (AUSTEL) and oversaw its privacy study.

Robin has been involved in the establishment of industry-specific dispute handling mechanisms in the banking, life insurance, health insurance and telecommunications sectors, including four years as a member of the Life Insurance Industry Complaints Panel. He was a member of the inaugural Banking Industry Ombudsman Council.

Robin works as a consumer affairs consultant on projects relating to various industry sectors and on government complaint handling systems

He has been involved in projects to advance consumer protection and competition policy and regulation in a number of developing countries.

Robin is member of the Australian Council for International Development Code Committee and in recent years has served as a Councillor of the Australian Consumers' Association, President of the ACT Council of Social Service and member of the ACT Community Inclusion Board and. He holds a BA and a Master of Public Policy from the Australian National University.



Fig 1. Complaints reviewed by the Authority by Member Company

Member	Number of Complaints	Member / Non-Member	% of total complaints
ACP	2	M	4%
American Express	2	M	4%
ANZ	1	M	2%
Australia Post	2	M	4%
Cbox	3	M	6%
Cellarmasters	1	M	2%
Coco-Cola	1	M	2%
Macquarie Mint (Downies Coins)	1	M	2%
Magnamail	1	M	2%
Readers Digest	4	M	8%
realestate.com.au	1	M	2%
Seton Australia	1	M	2%
Vodafone Australia	1	M	2%
More than Curtains	1	NM	2%
Affordable Holidays	1	NM	2%
Citibank	1	NM	2%
Evion Group	1	NM	2%
Holiday Fever	1	NM	2%
Homecare	1	NM	2%
Lifesource	1	NM	2%
Mary Kay	1	NM	2%
Online Hosting Network	1	NM	2%
Promedia Insulation	1	NM	2%
Raine and Horne Pyrmont	1	NM	2%
Sportsbet	1	NM	2%
Total Cases	52	M = 21 NM = 31	100%

Please also refer separate attachment.



Appendix 3 Total Number and Type of Complaint Received by the ADMA Code Authority since its inception

Nature of Complaint	Number
Request for Personal Details to be removed	22
Source of Personal Information	19
Not heeding DNM/DNC	103
Failure to comply with the Do Not Call Register	2
List Acquisition	4
Unsolicited Email	2
Payment demand for unordered goods	1
Payment demand for paid account	2
Goods received, claimed not ordered	18
Good ordered, not received	5
Goods ordered limit on purchase	1
Unfulfilled package deal	2
Faulty goods	1
Spare parts	1
Misleading advertising	26
Marketing to Children	1
Inappropriate advertising	2
Failure to refund	13
Charged for cancelled ordered / goods returned	9
Returns policy	2
No refund for postage and handling	1
Deceptive business practices	2
Unsatisfactory customer service	10
Account re-opened without permission	1
Database practices	1
Telemarketing using the guide of market research	2
Telephone harassment (caller unknown)	2
Automatic dialling / announcing devices	1
Telemarketing frequency	1
Sweepstakes	3
Total	265



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ADMA Calendar

November 2010

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31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	1	2	3	4
5	6	7	8	9	10	11

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ADMA Membership

Since our foundation in 1966, ADMA's mission has been to create an environment for the advancement of responsible, effective and enlightened marketing.

We proudly represent, inform and bring together Australia's leading businesses. Our dynamic, dynamic membership all benefit from the regulatory guidance, market protection, industry information, professional development pathways, networking and business growth opportunities that only belonging to ADMA can provide.

Considering ADMA membership? Learn more

Member Directory

- Medibank Private Limited
- RCI Pacific Pty Ltd
- Offset Alpine Printing Pty Ltd
- Michael Page International
- McWilliam's Wines

ADMA's 500 corporate members at the forefront of the information economy.

Upcoming Events

VIC Branch Guru Breakfast

25 November

Melbourne

Join the ADMA VIC Branch for the 5th installment in this year's series of popular Guru Breakfasts where in-house marketing head of Everyday Rewards, Emily Amos, will be presenting insights from this highly successful program.

Learn more

Data and Analytics Presentation

30 November

Newcastle

Join the ADMA Data and Analytics Council for a presentation from Michelle Woods, Insights and Member Communication Strategist from Newcastle Permanent Building Society.

Learn more

Love Boat Christmas Cruise

3 December

Sydney

ADMA News

20 October 2010
ADMA releases draft for marketing standards

20 October 2010
ADMA Code Authority Releases 2009-2010 Annual Report

14 October 2010
Free webinar on changes to the Australian Consumer Law

12 October 2010
Data Day returns

07 October 2010
ADMA welcomes the re-appointment of Chris Chapman

07 October 2010
Teresa Corbin appointed CEO of ACCAN

20 September 2010
Digital speakers sought

15 September 2010
Digital Day is coming

15 September 2010
Draft regulations and guides for Australian Consumer Law released

09 September 2010
Privacy protections for Australians online

31 August 2010
ADMA makes submission on draft privacy bill

22 August 2010
Cubed Communications takes out youngADMA Creative Slam Down

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Appendix 4

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Love Boat Christmas Cruise

3 December

Sydney

Don't miss the boat... join the ADMA NSW branch for their Christmas Lunch cruise. Tables are strictly limited and an early bird rate is available only until November 5, so hurry and book your tickets aboard the Love Boat now.

[Learn more](#)

See all upcoming events

Upcoming Courses

Multichannel Direct Marketing Certificate

The industry benchmark qualification providing a comprehensive grounding in the fundamental skills needed by multichannel marketers.

[Learn more](#)

Analyse to Optimise: Measurement and ROI

Assessing the most effective marketing tactics and use the information to improve performance.

[Learn more](#)

Digital Direct Marketing

Planning, building, executing, measuring, optimising and securing resources for digital market programs.

[Learn more](#)

Industry News

Mumbrella

Mumbo Report: Adam Boland on how he took Sunrise to number one [\[read\]](#)

The Block final puts in 1.7m [\[read\]](#)

Debutante launches ad featuring the psychic brewer [\[read\]](#)

Edelman adds Playgroup staff to Melbourne team [\[read\]](#)

Bu Kaleidoscope boss Kylie Green launches industry job board AdLand jobs [\[read\]](#)

Bolt is Rinehart's Ten investment aimed at turning it into an Australian Fox News? [\[read\]](#)

ABC boss Iain Scott: The Q and A blogger's Group's Demut because he was on its territory [\[read\]](#)

Von Chef final sees audience flaps [\[read\]](#)

Medibank Private Limited

ADMA's 600 corporate members at the forefront of the information economy.

Search our ranks to find diverse marketing suppliers including agencies, printers, mail houses, call centres, digital marketing specialists and an array of other organisations that market their products or services directly to consumers and businesses.

[Find an ADMA member](#)

ADMA Enquiries

The ADMA secretariat is here to assist with your questions about regulatory and consumer issues, details of our education and events program or membership enquiries.

adma Senior Management Team [Contact](#)

Stay Informed

Further information is available from ADMA by opting in to our communications. Tell us what you'd like to hear more about.

[More from ADMA](#)

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- Membership
- Sponsorship
- Media Centre
- Management Team

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- Inquiries and Complaints
- Do Not Mail
- Member Directory

Member Resources

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Inquiries and Complaints

Consumer Help

- FAQ
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Consumer Help is a free consumer service sponsored by ADMA.

ADMA provides advice and assistance to consumers in relation to how to protect their privacy and understanding their rights under Australian legislation and the ADMA Code of Practice.

In addition to assisting consumers with inquiries ADMA can also assists consumers resolve complaints with ADMA members.

Even in the best companies, complaints may arise. ADMA acts as an intermediary between consumers and direct marketing companies to resolve complaints on a timely basis.

Consumers requesting assistance should provide the company name and a description of the issue. If the complaint relates to collateral or material a copy of the material in question will be helpful.

ADMA will refer the complaint to the company on the consumer's behalf and ask that the company resolve the matter. In 97% of the cases referred to ADMA the company resolves the matter to the satisfaction of the complainant within a 30 day period. However if the matter is not resolved, it may be brought before the independent ADMA Code Authority for review. The Authority has considerable powers to sanction members that fail to comply with the ADMA Code of Practice.

- Frequently Asked Consumer Questions
- Ask a question
- Make a complaint
- ADMA Code of Practice

ADMA Calendar

November 2010

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ADMA Membership

Since our foundation in 1966, ADMA's mission has been to create an environment for the advancement of responsible, effective and enlightened marketing.

We proudly represent, inform and bring together Australia's leading businesses. Our diverse, dynamic membership all

A sample decision

Internal complaints handling procedures reviewed due to a high volume of complaints received by a member company

Throughout 2004, the Code Authority noted an increased in complaints against member company, Reader's Digest. These complaints fell into two categories - failure to heed consumer requests for no further contact and misleading advertising. The Code Authority made the decision to invite Reader's Digest to a Code Authority meeting.

At the meeting Reader's Digest provided an overview of both internal suppression procedures and the data matching processes used in relation to the ADMA Do Not Contact files.

With regard to misleading advertising, the Code Authority requested clarification of the guidelines followed by Reader's Digest when developing promotional copy, particularly with regard to sweepstakes.

In addition to responding to the Code Authority requests, Reader's Digest provided details of its recently introduced consumer complaints handling process. The Code Authority was satisfied with the new complaints procedure adopted and the response provided at the meeting by Reader's Digest to the issues raised above.

Subsequent to the meeting, Reader's Digest provided the Code Authority with an overview of the changes and modifications that had been made to promotional mailings and marketing material to avoid consumer confusion.



SAMPLE DECISIONS

INFOMERCIAL COMPLAINT

ADMA received a complaint from a consumer against member company, Infobreak, regarding its association with Kevin Trudeau and Shop America. The consumer expressed concern that by providing a forum for Mr. Trudeau, Infobreak may have been helping disseminate information that tended to mislead consumers, notably in the marketing of Mr. Trudeau's Mega Memory System.

In the course of reviewing the complaint, the Authority noted the NSW Fair Trading Department had entered an "enforceable undertaking" with Kevin Trudeau's Shop America (Australasia). The Authority forwarded the complaint onto the Department as part of their investigations and proposed enquiry into infomercials.

MAIL MARKETER CLARIFIES OFFER

ADMA was forwarded a complaint in February 2001 by the NSW Department of Fair Trading regarding a consumer's claim of misleading marketing material from catalogue shopping company Magnamail. The mail piece featured a sweepstakes offer notifying the recipient that they had "definitely won" a prize. The consumer expressed concern that there was insufficient indication that an order had to be placed before the consumer was eligible for the prize.

In reviewing all the marketing material associated with the mailing, the Code Authority recommended that the company pay particular attention that all material contained within the mailing carry a clear and consistent message about the consumer's chances of success to avoid future instances of confusion. Acknowledging the suggestion, Magnamail provided an example of a subsequent campaign with areas of concern appropriately addressed.



I. Enforcement

- 1 The scope of ADMA's enforcement procedures is limited to alleged breaches of the Code. It does not extend to:
 - 1.1 mediation of consumer complaints, which do not involve an alleged breach of the Code and would normally be dealt with by a Member's internal complaints handling process; and
 - 1.2 contractual disputes between suppliers and users of direct marketing services.

COMPLAINT RECEIVED BY ADMA

- 2 Any regulator, individual or consumer who considers that a Member has breached a provision of the Code may lodge a complaint with ADMA, addressed as follows:

Code Compliance Officer
Australian Direct Marketing Association
GPO Box 3895
Sydney NSW 2001

- 3 The complainant should set out the following details:
 - 3.1 his or her name and contact details;
 - 3.2 the name and, if known, the contact details of the Member;
 - 3.3 a brief outline of the complaint; and
 - 3.4 if the complainant has previously made a complaint to the Member, a brief outline of how that complaint was dealt with by the Member.

COMPLAINT INITIATED BY CODE AUTHORITY

- 4 The Code Authority may instigate investigation without receipt of a written complaint where it has reason to believe that a Member company is acting in breach of the Code of Practice provisions.

RESPONDING TO COMPLAINTS RELATED TO ALLEGED BREACH OF THE CODE

No breach of the Code

- 5 If, after assessing a complaint, the Code compliance officer does not consider there has been a breach of the Code, the Code compliance officer shall write to the complainant informing him or her that, based on the information provided by the complainant, there does not appear to be a breach of the Code;
 - 5.1 if new information becomes available, the complainant may request that ADMA review the complaint again;
 - 5.2 the complainant may request a review of the decision of the Code compliance officer by the Code Authority; and
 - 5.3 the response of ADMA does not preclude the complainant from pursuing other forms of redress such as lodging his or her complaint with a government regulatory authority.
- 6 Upon receiving a request for a review of a decision that the complaint does not involve a breach of the Code, the Code compliance officer must refer the matter to the Code Authority for its review in accordance with Section I 12.



Lack of jurisdiction

- 7 If, after assessing a complaint, the Code compliance officer concludes that:
 - 7.1 the complaint does not fall within the scope of the Code of Practice; or
 - 7.2 the complaint does not fall within the jurisdiction of the Code Authority and should be dealt with by a Government Regulatory body,the Code Compliance Officer shall endeavour to direct the complainant to the appropriate regulatory or advisory body.

Potential breach of Code by Non-Members

- 8 Where the Code compliance officer considers that an organisation who is not a Member of ADMA may have breached the Code, the Code compliance officer may write to the non-Member informing them of the existence of the Code and request compliance. The compliance officer may forward the complaint to the appropriate regulatory authority for further action.

Potential breach of the Code by Member

- 9 Where the Code compliance officer considers that an ADMA Member may have breached the Code, the officer shall write to the ADMA Member outlining the particulars of the alleged misconduct. Members must provide a written response to the allegations within 14 days.
- 10 If within 14 days the ADMA Member provides clear evidence of acting in compliance with the Code or independently resolves the complaint, the Code compliance officer will take no further action and advise the complainant in writing why no further action will be taken, offering the complainant the option of requesting that the Code Authority review the complaint.
- 11 If the ADMA Member disputes the complaint they must show evidence of steps undertaken in the matter to comply with the Code. If the Member is not able to demonstrate compliance within a reasonable period of time, the Code compliance officer shall refer the complaint to the Code Authority for its consideration in accordance with Section I 12.
- 12 Upon reviewing the complaint, the Code Authority may:
 - 12.1 direct the Code compliance officer to investigate the complaint further and report the results of such investigation to the Code Authority;
 - 12.2 cause the Code compliance officer to send a notice to the ADMA Member inviting the organisation to attend a hearing regarding the alleged breach of the Code by the Member. The notice should stipulate the place, the day and hour of the hearing and offer the ADMA Member the opportunity to attend the hearings by way of telephone conference; or resolve not to further pursue the alleged breach.

Hearing before the Authority

- 13 Prior to or at the Code Authority hearing, the Member may make written submissions to the Code Authority. Prior to the Code Authority hearing, the Member must be given a reasonable opportunity to inspect any documents that the Code Authority proposes to have regard to in reaching its decision on the allegations.
- 14 At the Code Authority hearing, the Member shall be given a reasonable opportunity to present its case. The Member may make verbal submissions in relation to the allegations. The Member may appear in person or may be represented by some other person. The Code Authority may, at its discretion, invite a complainant to participate in the Code Authority's hearings through written and/or verbal submissions.
- 15 Within 14 days of the conclusion of the Code Authority hearing, the Chief Executive Officer shall send the Member a notice containing the decision of the Code Authority. If the decision affirms the allegations, then the notice shall also include any remedial action and/or sanctions the Code Authority considers appropriate. The Code Authority must advise the complainant in writing of the decision of the Code Authority in relation to his or her complaint and provide a statement of any reasons the Code Authority has for making that decision.



- 16 The Member will have 14 days from receipt of the decision of the Code Authority to take the necessary steps to comply with the decision.
- 17 If within 14 days from receipt of the decision of the Code Authority the Member is unable to demonstrate compliance with the decision, the CEO will call a special meeting of the Board of Directors to consider removing the Member from the Association, subject to the recommendation of the Code Authority.
- 18 If ADMA records indicate that the Member has breached the Code on two or more occasions in the preceding 12 months, the Code Authority may recommend to the CEO that ADMA Membership be revoked.
- 19 If the Member withdraws from ADMA Membership at any point:
 - 19.1 during the consideration of a complaint by the Code Authority; or
 - 19.2 subsequent to a determination being reached by the Code Authority rendering sanctions unenforceable;

the Code Authority forwards the complaint, including relevant documentation and the determination, to the appropriate regulatory authority for further action.

Sanctions for Breach

- 20 Where the Code Authority finds that a Member has been in breach of the Code it may, subject to Section I 21, impose such sanctions as it considers appropriate including, without limiting the generality of its powers to:
 - 20.1 requiring a formal apology for breach;
 - 20.2 requiring corrective advertising or the withdrawal of offending advertisements or statements;
 - 20.3 requiring the correction or deletion of relevant records and personal information;
 - 20.4 recommending refund or replacement of goods or services where appropriate;
 - 20.5 requiring the Member to take specified remedial action to correct the breach and avoid re-occurrence;
 - 20.6 seeking a written undertaking from the Member that the breach will not be repeated;
 - 20.7 recommending the relevant supply chain or media channel used by the Member to communicate with its customers cease to supply and not cooperate with the Member in respect of future direct marketing activities planned by the Member until the breach is rectified;
 - 20.8 recommending to the CEO that Membership be suspended or revoked.
- 21 The ADMA Board of Directors may, on recommendation of the Code Authority, impose the following sanctions:
 - 21.1 order the payment of money, the transfer of property (including goods) or the delivery of goods;
 - 21.2 suspend or cancel Membership of a Member; or
 - 21.3 issue a formal written admonishment to the non-compliant Member, which may, where appropriate, be made public. This will include specifically informing the Membership that action has been taken. The non-compliant Member will be given the opportunity to both see and comment on the statement prior to publication;
- 22 During suspension or after termination, the Member must take immediate steps to cease using the ADMA logo and must not imply in any way that it is a Member of the Association.
- 23 On suspension or termination, the ADMA Board of Directors may notify any relevant industry body and/ or issue a public statement giving reasons for the suspension or expulsion.

Non-Members

- 24 With regard to non-compliance by non-Members, ADMA will inform the relevant government regulator of the non-compliant behaviour.

Charges

- 25 No fees or charges will be levied by ADMA with respect to the enforcement procedures under this Part I. Complainants must bear their own costs with respect to making a complaint under this Code.

Publication of Enforcement Action

- 26 ADMA will publish in its Annual Report:
- 26.1 the number of the complaints received by the Code compliance officer during that year;
 - 26.2 the number of breaches established by the Code compliance officer and Code Authority during that year;
 - 26.3 an analysis of the enforcement action taken during that year;
 - 26.4 a statistical analysis of complaints by company.

