

Direct Marketing Association
Nonprofit Federation

Ethical Guidelines for Fundraising and Other Nonprofit Communications



The DMA's Guidelines for Ethical Business Practice ("The Guidelines," revised November 2004), while developed primarily for the DMA's commercial members, nonetheless are applicable to all DMA members, including nonprofits. However, the Guidelines as published in the "Green Book" are not always applicable as a specific set of dos and don'ts for charities and fundraising agencies in their fundraising efforts, due to different regulations and industry practices.

Moreover, while marketing techniques are generally similar for commercial and nonprofit organizations, many nonprofits do not offer specific, tangible products or measurable services in return for contributions or dues, making the Guidelines difficult to use as a standard for ethics committee(s) to measure compliance by nonprofit membership organizations in their communications with members and prospects.

In recognition of those differences, the DMA Nonprofit Federation (DMANF) has created this document for use by nonprofits and their agencies, to assure that the Guidelines are understandable in the specific context of nonprofit fundraising, marketing, and communications, and to serve as the yardstick against which claims of unethical behavior may be compared.

The following pages replicate the 51 Guidelines, include comments on each as they relate to nonprofit organizations, and summarize the process followed in the event of a claim of unethical behavior by a DMA member. DMANF members are encouraged to discuss questions about the Guidelines with the DMANF staff and, when appropriate, with staff of the DMA Ethics and Consumer Affairs Department. For questions, contact DMANF Executive Director Senny Boone at (202) 861-2498.

A. The Terms of the Offer or Other Communication

HONESTY AND CLARITY OF OFFER

Article #1

All offers should be clear, honest, and complete so that the consumer may know the exact nature of what is being offered, the price, the terms of payment (including all extra charges), and the commitment involved in the placing of an order. Before publication of an offer, marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive, or fraudulent should not be used.

The “offer,” for most nonprofits, is a request for charitable contributions or a solicitation for membership. In either case, the statements of facts should be clear, honest, and verifiable. For example, charities should not describe societal needs that are not documented, and should not exaggerate the charities’ ability to serve those needs. Membership organizations should not promise benefits that are not guaranteed to those who join. When nonprofits do offer specific products or services, they must adhere to the same standards stated above for commercial organizations.

ACCURACY AND CONSISTENCY

Article #2

Simple and consistent statements or representations of all the essential points of the offer should appear in the promotional material. The overall impression of an offer should not be contradicted by individual statements, representations or disclaimers.

Applies equally to commercial and nonprofit organizations.

CLARITY OF REPRESENTATIONS

Article #3

Representations which, by their size, placement, duration, or other characteristics are unlikely to be noticed or are difficult to understand, should not be used if they are material to the offer.

Applies equally to commercial and nonprofit organizations.

ACTUAL CONDITIONS

Article #4

All descriptions, promises, and claims of limitation should be in accordance with actual conditions, situations, and circumstances existing at the time of the promotion.

Applies equally to commercial and nonprofit organizations.

DISPARAGEMENT

Article #5

Disparagement of any person or group on grounds addressed

by federal or state laws that prohibit discrimination is unacceptable.

Applies equally to commercial and nonprofit organizations.

DECENCY

Article #6

Solicitations should not be sent to consumers who have indicated to the marketer that they consider those solicitations to be vulgar, immoral, profane, pornographic or offensive in any way and who do not want to receive them.

Applies equally to commercial and nonprofit organizations. If a prospective donor asks to have his/her name removed from solicitations, that request should be honored.

PHOTOGRAPHS AND ART WORK

Article #7

Photographs, illustrations, artwork, and the situations they describe should be accurate portrayals and current reproductions of the products, services, or other subjects they represent.

Applies equally to commercial and nonprofit organizations.

DISCLOSURE OF SPONSOR AND INTENT

Article #8

All marketing contacts should disclose the name of the sponsor and each purpose of the contact. No one should make offers or solicitations in the guise of one purpose when the intent is a different purpose.

Applies equally to commercial and nonprofit organizations. Moreover, the specific benefits from cause-related marketing arrangements with commercial organizations and how they are computed from cooperative arrangements should be prominently disclosed. (e.g., percentage or amount of a sales price or the total dollar amount which will be contributed to the nonprofit.)

ACCESSIBILITY

Article #9

Every offer should clearly identify the marketer’s name and street address or telephone number, or both, at which the individual may obtain service. If an offer is made online, the marketer should provide its name, an Internet-based contact mechanism and a street address. For email solicitations, marketers should comply with Article #38 (Commercial Solicitations Online).

Applies equally to commercial and nonprofit organizations.

SOLICITATION IN THE GUISE OF AN INVOICE OR GOVERNMENTAL NOTIFICATION

Article #10

Offers that are likely to be mistaken for bills, invoices, or

notices from public utilities or governmental agencies should not be used.

Applies equally to commercial and nonprofit organizations. Moreover, nonprofit communications of all types should avoid any possibility of confusion as to the author/sender. This does not apply to situations in which an invoice could reasonably be anticipated by a donor or member (such as in a monthly giving program.)

POSTAGE, SHIPPING OR HANDLING CHARGES

Article #11

Postage, shipping or handling charges, if any, should bear a reasonable relationship to actual costs incurred.

While this Article does not normally apply to nonprofits, when they offer products or services as premiums, or for sale, such as through museum or interest group catalogs, it applies to nonprofit organizations in the same manner and degree as it does to commercial ones.

B. Advance Consent Fundraising and Memberships

Article #12

These guidelines address programs where the donor or member gives consent to remit contributions, or pay for memberships or subscriptions, or receive and pay for goods or services in the future on a continuing or periodic basis unless and until the individual cancels the program.

The following principles apply to all advance consent marketing plans:

- Marketers should have the consumer's informed consent to participate in any advance consent marketing (or fundraising) plan before the consumer is billed or charged. In telephone sales where the consumer pays in a way other than by credit or debit card, this consent must be written or audio recorded.
- Marketers may provide products or services and bills concurrently; however, 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. Marketers should allow consumers a reasonable length of time between receipt of renewal reminders and the renewal date, before which consumers can cancel the plan.
- Marketers should promptly honor requests for

refunds due upon consumers' cancellation of the plan.

Marketers should clearly and conspicuously disclose material terms and conditions before obtaining the consumer's consent, including:

- a description of the goods or services being offered
- the identity of the marketer and contact information for service or cancellation
- the interval between shipments or services to be provided
- the price or the range of prices of the goods or services purchased by the consumer, including whether there are any additional charges
- whether the consumer will be billed or automatically charged
- when and how frequently the consumer will be billed or charged
- the fact that the consumer must take affirmative action to cancel in order to avoid future billing or charges
- the specific and easy steps that consumers should follow to cancel the plan and avoid the charges
- the time period, if any, within which the consumer must cancel

When applicable, the following terms and conditions should also be clearly and conspicuously disclosed in the initial offer:

- that the current plan or renewal prices of the goods or services are subject to change
- the length of any free, trial or approval period in time or quantity
- the length of membership period, and the length of subsequent renewal or billing periods
- the fact that goods or services will continue after the free period unless the consumer cancels
- any minimum purchase obligations
- the terms and conditions of any refund policy

In telephone sales where the marketer uses pre-acquired account information under a free-to-pay conversion plan, the marketer should:

- obtain from the consumer the last 4 digits of the account to be charged
- obtain consent from the consumer to charge

such account

- audio record the entire transaction

In telephone sales where the marketer uses pre-acquired account information but does not engage in a free-to-pay conversion plan, the marketer should:

- identify with specificity the account that will be charged
- obtain consent from the consumer to charge such account

All marketing partners or service providers should comply with these guidelines. The above requirements, relating to sales of products and services, apply equally to solicitations of contributions.

C. Marketing to Children

MARKETING TO CHILDREN

Article #13

Offers and the manner in which they are presented that are suitable for adults only should not be made to children. In determining the suitability of a communication with children online or in any other medium, marketers should address the age range, knowledge, sophistication, and maturity of their intended audience.

Applies to nonprofits in their efforts to raise funds and solicit memberships and subscriptions.

PARENTAL RESPONSIBILITY AND CHOICE

Article #14

Marketers should provide notice and an opportunity to opt out of the marketing process so that parents have the ability to limit the collection, use and disclosure of their children's names, addresses or other personally identifiable information.

Applies to nonprofits in their efforts to raise funds and solicit memberships and subscriptions.

INFORMATION FROM OR ABOUT CHILDREN

Article #15

Marketers should take into account the age range, knowledge, sophistication, and maturity of children when collecting information from them. Marketers should limit the collection, use, and dissemination of information collected from or about children to information required for the promotion, sale, and delivery of goods and services, provision of customer services, conducting market research, and engaging in other appropriate marketing activities.

Marketers should effectively explain that the information is being requested for marketing purposes. Information not

appropriate for marketing purposes should not be collected.

Upon request from a parent, marketers should promptly provide the source and general nature of information maintained about a child. Marketers should implement strict security measures to ensure against unauthorized access, alteration or dissemination of the data collected from or about children.

Applies to nonprofits in their efforts to raise funds and solicit memberships and subscriptions.

MARKETING ONLINE TO CHILDREN UNDER 13 YEARS OF AGE

Article #16

Marketers should not collect personally identifiable information online from a child under 13 without prior parental consent or direct parental notification of the nature and intended use of such information online and an opportunity for the parent to prevent such use and participation in the activity. Online contact information should only be used to directly respond to an activity initiated by a child and not to recontact a child for other purposes without prior parental consent. However, a marketer may contact and get information from a child for the purpose of obtaining parental consent.

Marketers should not collect, without prior parental consent, personally identifiable information online from children that would permit any off-line contact with the child.

Marketers should not distribute to third parties, without prior parental consent, information collected from a child that would permit any contact with that child.

Marketers should take reasonable steps to prevent the online publication or posting of information that would allow a third party to contact a child off-line unless the marketer has prior parental consent.

Marketers should not entice a child to divulge personally identifiable information by the prospect of a special game, prize, or other offer.

Marketers should not make a child's access to a Web site contingent on the collection of personally identifiable information. Only online contact information used to enhance the interactivity of the site is permitted.

The following assumptions underlie these online guidelines:

- When a marketer directs a site at a certain age group, it can expect that the visitors to that site are in that age range.
- When a marketer asks the age of the child, the

marketer can assume the answer to be truthful.

Applies to nonprofits in their efforts to raise funds and solicit memberships and subscriptions.

D. Special Offers and Claims

USE OF THE WORD “FREE” AND OTHER SIMILAR REPRESENTATIONS

Article #17

A product or service that is offered without cost or obligation to the recipient may be unqualifiedly described as “free.”

If a product or service is offered as “free,” all qualifications and conditions should be clearly and conspicuously disclosed, in close conjunction with the use of the term “free” or other similar phrase. When the term “free” or other similar representations are made (for example, 2-for-1, half-price or 1-cent offers), the product or service required to be purchased should not have been increased in price or decreased in quality or quantity.

Applies to nonprofits in their fundraising appeals and membership and subscription offers.

PRICE COMPARISONS

Article #18

Price comparisons, including those between a marketer’s current price and a former, future, or suggested price, or between a marketer’s price and the price of a competitor’s comparable product, should be fair and accurate.

In each case of comparison to a manufacturer’s suggested, competitor’s comparable, or former product price, recent substantial sales should have been made at that price in the same trade area.

For comparisons with a future price, there should be a reasonable expectation that the new price will be charged in the foreseeable future.

Applies to nonprofits selling products or services, and soliciting memberships and subscriptions.

GUARANTEES

Article #19

If a product or service is offered with a guarantee or a warranty, either the terms and conditions should be set forth in full in the promotion, or the promotion should state how the consumer may obtain a copy. The guarantee should clearly state the name and address of the guarantor and the duration of the guarantee.

Any requests for repair, replacement or refund under the terms of a guarantee or warranty should be honored promptly. In an unqualified offer of refund, repair or

replacement, the customer’s preference should prevail.

Applies equally to commercial and nonprofit organizations.

USE OF TEST OR SURVEY DATA

Article #20

All test or survey data referred to in advertising should be valid and reliable as to source and methodology, and should support the specific claim for which it is cited. Advertising claims should not distort test or survey results or take them out of context.

Applies equally to commercial and nonprofit organizations.

TESTIMONIALS AND ENDORSEMENTS

Article #21

Testimonials and endorsements should be used only if they are:

- a. authorized by the person quoted
- b. genuine and related to the experience of the person giving them both at the time made and at the time of the promotion
- c. not taken out of context so as to distort the endorser’s opinion or experience with the product

Applies equally to commercial and nonprofit organizations.

E. Sweepstakes

USE OF THE TERM “SWEEPSTAKES”

Article #22

Sweepstakes are promotional devices by which items of value (prizes) are awarded to participants by chance without the promoter’s requiring the participants to render something of value (consideration) to be eligible to participate. The co-existence of all three elements - prize, chance, and consideration - in the same promotion constitutes a lottery. It is illegal for any private enterprise to run a lottery without specific governmental authorization.

When skill replaces chance, the promotion becomes a skill contest. When gifts (premiums or other items of value) are given to all participants independent of the element of chance, the promotion is not a sweepstakes. Promotions that are not sweepstakes should not be held out as such.

Only those promotional devices that satisfy the definition stated above should be called or held out to be a sweepstakes.

Applies equally to nonprofit and commercial organizations.

NO PURCHASE OPTION

Article #23

Promotions should clearly state that no purchase is required to win sweepstakes prizes. They should not represent that

those who make a purchase or otherwise render consideration with their entry will have a better chance of winning or will be eligible to win more or larger prizes than those who do not make a purchase or otherwise render consideration. The method for entering without ordering should be easy to find, read, and understand. When response devices used only for entering the sweepstakes are provided, they should be as easy to find as those utilized for ordering the product or service.

Applies equally to nonprofit and commercial organizations. The no-purchase option applies to fundraising, in that no contribution may be required to participate in the sweepstakes.

CHANCES OF WINNING

Article #24

No sweepstakes promotion, or any of its parts, should represent that a recipient or entrant has won a prize or that any entry stands a greater chance of winning a prize than any other entry when this is not the case. Winners should be selected in a manner that ensures fair application of the laws of chance.

Applies equally to nonprofit and commercial organizations.

PRIZES

Article #25

Sweepstakes prizes should be advertised in a manner that is clear, honest, and complete so that the consumer may know the exact nature of what is being offered. For prizes paid over time, the annual payment schedule and number of years should be clearly disclosed.

Photographs, illustrations, artwork, and the situations they represent should be accurate portrayals of the prizes listed in the promotion.

No award or prize should be held forth directly or by implication as having substantial monetary value if it is of nominal worth. The value of a non-cash prize should be stated at regular retail value, whether actual cost to the sponsor is greater or less.

All prizes should be awarded and delivered without cost to the participant. If there are certain conditions under which a prize or prizes will not be awarded, that fact should be disclosed in a manner that is easy to find, read, and understand.

Applies equally to nonprofit and commercial organizations.

PREMIUMS

Article #26

Premiums should be advertised in a manner that is clear, honest, and complete so that the consumer may know the exact nature of what is being offered.

A premium, gift or item should not be called or held out to be a “prize” if it is offered to every recipient of or participant in a promotion. If all participants will receive a premium, gift or item, that fact should be clearly disclosed.

Applies equally to nonprofit and commercial organizations.

DISCLOSURE OF RULES

Article #27

All terms and conditions of the sweepstakes, including entry procedures and rules, should be easy to find, read, and understand. Disclosures set out in the rules section concerning no purchase option, prizes, and chances of winning should not contradict the overall impression created by the promotion.

The following should be set forth clearly in the rules:

- no purchase of the advertised product or service is required in order to win a prize
- purchase will not improve the chances of winning
- procedures for entry
- if applicable, disclosure that a facsimile of the entry blank or other alternate means (such as a 3”x 5” card) may be used to enter the sweepstakes
- the termination date for eligibility in the sweepstakes; the termination date should specify whether it is a date of mailing or receipt of entry deadline
- the number, retail value (of non-cash prizes) and complete description of all prizes offered, and whether cash may be awarded instead of merchandise; if a cash prize is to be awarded by installment payments, that fact should be clearly disclosed, along with the nature and timing of the payments
- the estimated odds of winning each prize; if the odds depend upon the number of entries, the stated odds should be based on an estimate of the number of entries
- the method by which winners will be selected
- the geographic area covered by the sweepstakes and those areas in which the offer is void
- all eligibility requirements, if any
- approximate dates when winners will be selected and notified
- publicity rights regarding the use of winner’s name
- taxes are the responsibility of the winner

- provision of a mailing address to allow consumers to receive a list of winners of prizes over \$25.00 in value

Applies equally to nonprofits. Nonprofit organizations should review applicable state laws since states may require additional disclosures and filings.

F. Fulfillment

UNORDERED MERCHANDISE OR SERVICE

Article #28

Merchandise or services should not be provided without having first received the customer's permission. The exceptions are samples or gifts clearly marked as such, and merchandise mailed by a charitable organization soliciting contributions, as long as all items are sent with a clear and conspicuous statement informing the recipient of an unqualified right to treat the product as a gift and to do with it as the recipient sees fit, at no cost or obligation to the recipient.

Applies equally to commercial and nonprofit organizations.

PRODUCT AVAILABILITY AND SHIPMENT

Article #29

Direct marketers should offer merchandise only when it is on hand or when there is a reasonable expectation of its timely receipt.

Direct marketers should ship all orders according to the terms of the offer or within 30 days where there is no promised shipping date, unless otherwise directed by the consumer, and should promptly notify consumers of any delays.

Applies equally to commercial and nonprofit organizations.

DRY TESTING

Article #30

Direct marketers should engage in dry testing only when the special nature of the offer is made clear in the promotion.

Applies equally to commercial and nonprofit organizations as it relates to a product or service, such as a book, magazine, etc. that does not yet exist or an event that has not taken place, whereby the organization is simply making the offering to test interest.

G. Collection, Use, and Maintenance of Marketing Data

Nonprofits are cautioned to become and remain knowledgeable about frequently-changing federal and state laws governing privacy and the use of personally identifiable data.

COLLECTION, USE, AND TRANSFER OF PERSONALLY IDENTIFIABLE DATA

Article #31

Consumers who provide data that may be rented, sold, or exchanged for marketing purposes should be informed periodically by marketers of their policy concerning the rental, sale, or exchange of such data and of the opportunity to opt out of the marketing process. Should that policy substantially change, marketers have an obligation to inform consumers of that change prior to the rental, sale, or exchange of such data, and to offer consumers an opportunity to opt out of the marketing process at that time. All individual opt-out requests should be honored. Marketers should maintain and use their own systems, policies, and procedures, including in-house suppression and opt-out lists. At no cost to consumers, marketers should refrain from using or transferring such data, as the case may be, as requested by consumers.

List compilers should maintain and use their own systems, policies, and procedures. At no cost to consumers, list compilers should refrain from using or transferring data, as the case may be, as requested by consumers.

For each list that is rented, sold, or exchanged, the applicable DMA Preference Service name removal list (e.g., Mail Preference Service, Telephone Preference Service and E-mail Preference Service) should be employed prior to use.

Data about consumers who have opted out of use, including a request not to be contacted or transferred, should not, per their requests, be used, rented, sold, or exchanged.

In addition to adhering to these guidelines, marketers should cooperate with the DMA when requested in demonstrating compliance with the Privacy Promise.

Upon request by a consumer, marketers should disclose the source from which they obtained personally identifiable data about that consumer.

Applies equally to nonprofit and commercial organizations.

PERSONAL DATA

Article #32

Marketers should be sensitive to the issue of consumer privacy and should only collect, combine, rent, sell, exchange, or use marketing data. Marketing data should be used only for marketing purposes.

Data and selection criteria that by reasonable standards may be considered sensitive and/or intimate should not be disclosed, displayed, or provide the basis for lists made available for rental, sale, or exchange when there is a reasonable expectation by the consumer that the information will be kept confidential.

Credit card, checking account, and debit account numbers

are considered to be personal information and therefore should not be transferred, rented, sold, or exchanged when there is a reasonable expectation by the consumer that the information will be kept confidential.

Because of the confidential nature of such personally identifying numbers, they should not be publicly displayed on direct marketing promotions or otherwise made public by direct marketers.

Social Security numbers are also considered to be personal information and therefore should not be transferred, rented, sold, or exchanged for use by a third party when there is a reasonable expectation by the consumer that the information will be kept confidential. Because of the confidential nature of Social Security numbers, they should not be publicly displayed on direct marketing promotions or otherwise made public by direct marketers. Social Security numbers, however, are used by direct marketers as part of the process of extending credit to consumers or for matching or verification purposes.

Applies equally to nonprofit and commercial organizations.

COLLECTION, USE, AND TRANSFER OF HEALTH-RELATED DATA

Article #33

Health-related data constitute information related to consumers’:

- illnesses or conditions
- treatments for those illnesses or conditions, such as prescription drugs, medical procedures, devices, or supplies
- treatments received from doctors (or other health care providers), at hospitals, clinics, or other medical treatment facilities

These fair information practices and principles apply to any individual or entity that collects, maintains, uses and/or transfers health-related data for marketing purposes, whether or not marketing is a primary purpose. These principles are applicable to nonprofit as well as for-profit entities.

1. Personally identifiable health-related data gained in the context of a relationship between consumers and health or medical care providers or medical treatment facilities should not be transferred for marketing purposes without the specific prior consent of those consumers. Health or medical care providers include licensed health care practitioners, such as doctors, nurses, psychologists, pharmacists, and counselors, and those who support health care providers and therefore have access to personally identifiable information, such as insurance

companies, pharmacy benefits managers, or other business partners, and businesses that sell prescription drugs.

2. Personally identifiable health-related data, including the occurrence of childbirth, gained in the context of a relationship between consumers and health or medical care providers or medical treatment facilities (as defined in #1) should not be used to contact those consumers for marketing purposes without giving consumers a clear notice of the marketer’s intended uses of the data and the opportunity to request not to be so contacted.
3. Personally identifiable health-related data volunteered by consumers, and gathered outside of the relationship between consumers and health care providers, should also be considered sensitive and personal in nature. Such data should not be collected, maintained, used and/or transferred for marketing purposes unless those consumers receive, at the time the data are collected, a clear notice of the marketer’s intended uses of the data. This includes whether the marketer will transfer the data to third parties for further use, the name of the collecting organization, and the opportunity to opt out of transfer of the data. Such data include, but are not limited to, data volunteered by consumers when responding to surveys and questionnaires. Clear notice should be easy to find, read, and understand.
4. Personally identifiable health-related data inferred about consumers, and gathered outside of the relationship between consumers and health care providers, should also be considered sensitive and personal in nature. These are data based on consumers’ purchasing behavior. Such data include, but are not limited to, data captured by inquiries, donations, purchases, frequent shopper programs, advertised toll-free telephone numbers, or other consumer response devices. Any entity, including a seller of over-the-counter drugs, which uses inferred health-related data should, per the DMA’s Privacy Promise, promptly provide notice and the opportunity to opt out of any transfer of the data for marketing purposes.
5. Marketers using personally identifiable health-related data should provide both the source and nature of the information they have about that consumer, upon request of that consumer and receipt of that consumer’s

proper identification.

6. Consumers should not be required to release personally identifiable health-related information about themselves to be used for marketing purposes as a condition of receiving insurance coverage, treatment or information, or otherwise completing their health care-related transaction.
7. The text, appearance, and nature of solicitations directed to consumers on the basis of health-related data should take into account the sensitive nature of such data.
8. Marketers should ensure that safeguards are built into their systems to protect personally identifiable health-related data from unauthorized access, alteration, abuse, theft, or misappropriation. Employees who have access to personally identifiable health-related data should agree in advance to use those data only in an authorized manner.

If personally identifiable health-related data are transferred from one direct marketer to another for a marketing purpose, the transferor should arrange strict security measures to assure that unauthorized access to the data is not likely during the transfer process. Transfers of personally identifiable health-related data should not be permitted for any marketing uses that are in violation of any of The DMA's Guidelines for Ethical Business Practice.

Nothing in these guidelines is meant to prohibit research, marketing, or other uses of health-related data which are not personally identifiable, and which are used in the aggregate.

Applies equally to nonprofit and commercial organizations.

PROMOTION OF MARKETING LISTS

Article #34

Any advertising or promotion for marketing lists being offered for rental, sale, or exchange should reflect the fact that a marketing list is an aggregate collection of marketing data. Such promotions should also reflect a sensitivity for the consumers on those lists.

Applies equally to nonprofit and commercial organizations.

MARKETING LIST USAGE

Article #35

List owners, brokers, managers, compilers, and users of marketing lists should ascertain the nature of the list's intended usage for each materially different marketing use prior to rental, sale, exchange, transfer, or use of the list. List owners, brokers, managers and compilers should not permit the rental, sale, exchange, or transfer of their marketing lists,

nor should users use any marketing lists for an offer that is in violation of these guidelines.

Applies equally to nonprofit and commercial organizations.

INFORMATION SECURITY

Article #36

The protection of personally identifiable information is the responsibility of all marketers. Therefore, marketing companies should assume the following responsibilities to provide secure transactions for consumers and to protect databases containing consumers' personally identifiable information against unauthorized access, alteration, or dissemination of data:

- establish information security policies and practices that assure the uninterrupted security of information systems
- create and implement staff policies, procedures, training, and responsiveness measures to protect personally identifiable information handled in the everyday performance of duties
- employ and routinely reassess protective physical safeguards and technological measures in support of information security policies
- inform all business partners and service providers that handle personally identifiable information of their responsibility to ensure that their policies, procedures, and practices maintain a level of security consistent with the marketer's applicable information security policies

Applies equally to nonprofit and commercial organizations.

H. Online Marketing

ONLINE INFORMATION

Article #37

Notice to Online Visitors

If your organization operates an online site, you should make your information practices available to visitors in a prominent place on your Web site's home page or in a place that is easily accessible from the home page. The notice about information practices on your Web site should be easy to find, read, and understand so that a visitor is able to comprehend the scope of the notice. The notice should be available prior to or at the time personally identifiable information is collected.

Your organization and its postal address, and the Web site(s) to which the notice applies should be identified so the visitor knows who is responsible for the Web site. You also should

provide specific contact information so the visitor can contact your organization for service or information.

If your organization collects personally identifiable information from visitors, your notice should include:

- the nature of personally identifiable information collected about individual visitors online, and the types of uses you make of such information, including marketing uses that you may make of that information
- whether you transfer personally identifiable information to third parties for use by them for their own marketing and the mechanism by which the visitor can exercise choice not to have such information transferred
- whether personally identifiable information is collected by, used by, or transferred to agents (entities working on your behalf) as part of the business activities related to the visitor's actions on the site, including to fulfill orders or to provide information or requested services
- whether you use cookies or other passive means of data collection, and whether such data collected are for internal purposes or transferred to third parties for marketing purposes
- what procedures your organization has put in place for accountability and enforcement purposes
- that your organization keeps personally identifiable information secure

If you knowingly permit network advertisers to collect information on their own behalf or on behalf of their clients on your Web site, you should also provide notice of the network advertisers that collect information from your site and a mechanism by which a visitor can find those network advertisers to obtain their privacy statements and to exercise the choice of not having such information collected. (Network advertisers are third parties that attempt to target online advertising and make it more relevant to visitors based on Web traffic information collected over time across Web sites of others.)

If your organization's policy changes materially with respect to the sharing of personally identifiable information with third parties for marketing purposes, you will update your policy and give consumers conspicuous notice to that effect, offering an opportunity to opt out.

Honoring Choice

You should honor a visitor's choice regarding use and transfer of personally identifiable information made in accordance with your stated policy. If you have promised to honor the visitor's choice for a specific time period, and if

that time period subsequently expires, then you should provide that visitor with a new notice and choice. You should provide choices of opting out online. You may also offer opt-out options by mail or telephone.

Providing Access

You should honor any representations made in your online policy notice regarding access.

Data Security

Your organization should use security technologies and methods to guard against unauthorized access, alteration, or dissemination of personally identifiable information during transfer and storage. Your procedures should require that employees and agents of your organization who have access to personally identifiable information use and disclose that information only in a lawful and authorized manner.

Visitors Under 13 Years of Age

If your organization has a site directed to children under the age of 13 or collects personally identifiable information from visitors known to be under 13 years of age, your Web site should take the additional steps required by Article #16 of the Guidelines for Ethical Business Practice and inform visitors that your disclosures and practices are subject to compliance with the Children's Online Privacy Protection Act.

Accountability

There should be a meaningful, timely, and effective procedure through which your organization can demonstrate adherence to your stated online information practices. Such a procedure may include: 1) self or third party verification and monitoring 2) complaint resolution 3) education and outreach. This can be accomplished by an independent auditor, public self-certification, a third party privacy seal program, a licensing program, membership in a trade, professional, or other membership association or self-regulatory program, or by being subject to government regulation.

Applies equally to nonprofit and commercial organizations.

COMMERCIAL SOLICITATIONS ONLINE

Article #38

Marketers may send commercial solicitations online under one of the following circumstances:

- the solicitations are sent to the marketers' own customers
- individuals have given their affirmative consent to the marketer to receive solicitations online
- individuals did not opt out after the marketer has given notice of the opportunity to opt out

from solicitations online

- The marketer has received assurance from the third party list provider that the individuals whose e-mail addresses appear on that list:
 - have already provided affirmative consent to receive solicitations online
 - have already received notice of the opportunity to have their e-mail addresses removed and have not opted out

Within each e-mail solicitation, marketers should furnish individuals with a link or notice they can use to:

- request that the marketer not send them future solicitations online
- request that the marketer not rent, sell, or exchange their e-mail addresses for online solicitation purposes

If individuals request that their names be removed from the marketer's in-house online suppression list, then the marketer may not rent, sell, or exchange their email addresses with third parties for solicitation purposes.

The above requests should be honored within ten business days, and the marketer's opt-out mechanism should be active for at least 30 days from the date of the email solicitation.

Only those marketers that rent, sell, or exchange information need to provide notice of a mechanism to opt out of information transfer to third-party marketers.

Marketers should process commercial e-mail lists obtained from third parties using the DMA's E-mail Preference Service suppression file. E-MPS need not be used on one's own customer lists, or when individuals have given affirmative consent to the marketer directly.

Solicitations sent via e-mail should disclose the marketer's identity and street address. The subject "from" line should be clear, honest, and not misleading and the subject line should reflect the actual content of the message so that recipients understand that the e-mail is an advertisement. The header information should be accurate.

Applies equally to nonprofit and commercial organizations.

ONLINE REFERRAL MARKETING

Article #39

Online referral marketing is a technique marketers use to get new marketing leads. Typically, the online marketer does one of the following:

1. encourages an individual to forward a marketing piece on to another individual (personally identifiable information is not collected)

2. asks an individual to provide the marketer with personally identifiable information about another individual so the marketer may contact that person directly

This guideline relates only to the second type of online referral marketing above, where personal information about a prospect is given to the marketer.

A marketer should not use personally identifiable information about a prospect provided online by another individual unless:

- the marketer has first clearly disclosed to the referring individual the intended uses of the information
- the marketer has disclosed to the referring individual that their own contact information will be provided to those they have referred to the marketer
- the marketer discloses to the referred person the fact that their contact information was obtained from another individual. The marketer should make the referring person's information available in the first e-mail communication to the prospect. or, the marketer can tell the prospect how to get the referring person's contact information at no cost
- the marketer provides, in the first and any subsequent e-mail communications, the ability to remove the referred person's name from future contact

Marketers should not contact referred individuals who are on their in-house e-mail suppression lists, and should not sell, rent, share, transfer, or exchange a referred e-mail address unless they receive prior permission from the referred person to do so.

Applies equally to nonprofit and commercial organizations.

E-MAIL APPENDING TO CONSUMER RECORDS

Article #40

Definition of e-mail address appending: E-mail address appending is the process of adding a consumer's e-mail address to that consumer's record. The e-mail address is obtained by matching those records from the marketer's database against a third-party database to produce a corresponding e-mail address.

A marketer should not append a consumer's e-mail address to its database without the consumer's permission to add his or her e-mail address to the marketer's database, unless:

1. there is an established business relationship with that consumer either online or offline

2. the data used in the append process are from sources that provided notice and choice regarding the acceptance of receiving third-party e-mail offers and where the consumer did not opt out
3. reasonable efforts are taken to ensure the appending of accurate e-mail addresses to the corresponding consumer records

Marketers should not send e-mails to appended e-mail addresses that are on their in-house e-mail suppression files. A marketer should not sell, rent, transfer, or exchange an appended e-mail address of a consumer unless it first offers notice and choice to the consumer.

All messages to an e-mail appended address should include a notice and choice to continue to communicate via e-mail.

Applies equally to nonprofit and commercial organizations.

I. Telephone Marketing

Nonprofits are exempt from some state Do-Not-Call registries as well as the national Do-Not-Call registry implemented by the Federal Trade Commission. The DMANF believes that nonprofits may not constitutionally be prevented from contacting anyone, but should become familiar with the regulations governing telemarketing, since many provisions still apply to nonprofits, and continually assure that their vendors know and adhere to all applicable laws.

REASONABLE HOURS

Article #41

Telephone contacts should be made during reasonable hours as specified by federal and state laws and regulations.

Applies equally to nonprofit and commercial organizations.

TAPING OF CONVERSATIONS

Article #42

Taping of telephone conversations by telephone marketers should only be conducted with notice to or consent of all parties, or the use of a beeping device, as required by applicable federal and state laws and regulations.

Applies equally to nonprofit and commercial organizations.

RESTRICTED CONTACTS

Article #43

A marketer should not knowingly call or send a voice solicitation message to a consumer who has an unlisted or unpublished telephone number except in instances where the number was provided by the consumer to that marketer for that purpose. A marketer should not call consumers who are on the marketer's in-house Do-Not-Call list. A marketer should not knowingly place a call or send a voice or text

message to a wireless telephone number for which the called party must pay the charge, in either business-to-consumer or business-to-business marketing, except in instances where the number was provided by the consumer or business to that marketer for that purpose. A marketer should also use the DMA's Wireless Suppression Service or another comprehensive wireless suppression service prior to calling or sending text solicitation messages.

A marketer should use the DMA's Telephone Preference Service as required in Article #31 and must use the federal Do-Not-Call registry and state Do-Not-Call lists when applicable prior to using any outbound calling list. Individuals with whom the marketer has an established business relationship do not need to be suppressed even if they are on the national registry. An established business relationship is defined as those persons with whom the marketer has had a transaction/received a payment within the last 18 months or those persons who have inquired about the marketer's products/services within the last 3 months. (Note: State laws may vary. The DMA's Web site at: <http://www.the-dma.org/government/donotcalllists.shtml> attempts to provide current information on state Do-Not-Call lists.) Consumers who have given written permission to the marketer do not need to be suppressed by any Do-Not-Call list. Individuals can add or remove themselves from company-specific Do-Not-Call lists either orally or in writing.

Marketers should not use randomly or sequentially generated numbers in sales or marketing solicitations.

Applies equally to nonprofit and commercial organizations, with the exception of the federal and applicable state Do-Not-Call lists.

CALLER-ID/AUTOMATIC NUMBER IDENTIFICATION REQUIREMENTS

Article #44

Wherever the technology is available marketers should:

- transmit a telephone number such as the telephone number of the seller, service bureau, or customer service department that the consumer can call back during normal business hours to ask questions and/or to request not to receive future calls
- transmit the name of the seller or service bureau

Marketers should not block transmission of caller identification or transmit a false name or telephone number.

Telephone marketers using automatic number identification (ANI) should not rent, sell, transfer, or exchange, without customer consent, telephone numbers gained from ANI except where a prior business relationship exists for the sale of directly related goods or services.

Applies equally to nonprofit and commercial organizations.

USE OF AUTOMATED DIALING EQUIPMENT

Article #45

Marketers using automated dialing equipment should allow 15 seconds or four rings before disconnecting an unanswered call.

Marketers should connect calls to live representatives within 2 seconds of the consumer's completed greeting. If the connection does not occur within the 2-second period, then the call is considered abandoned whether or not the call is eventually connected.

For any abandoned calls, the marketer should play a prerecorded message that includes the seller's name, telephone number, states the purpose of the call, and provides a telephone number at which the consumer can request not to receive future marketing calls.

Repeated abandoned or "hang up" calls to consumers' residential telephone numbers should be minimized. In no case should calls be abandoned more than either:

- 3% of answered calls within a 30-day period (unless a more restrictive state law applies)
- twice to the same telephone number within a 48-hour time period

Marketers should only use automated dialing equipment which allows the telephone to immediately release the line when the called party terminates the connection.

When using any automated dialing equipment to reach a multi-line location, whether for business-to-consumer or business-to-business marketing, the equipment should release each line used before connecting to another.

Companies that manufacture and/or sell automated dialing equipment should design the software with the goal of minimizing abandoned calls to consumers. The software should be delivered to the user set as close to 0% as possible.

Manufacturers should distribute these Guidelines for Automated Dialing Equipment to purchasers of dialing equipment and recommend that they be followed.

The dialers' software should be capable of generating a report that permits the user of the equipment to substantiate compliance with the guideline.

Applies equally to nonprofit and commercial organizations.

Glossary of Terms Used

Automated Dialing Equipment — any system or device that initiates outgoing call attempts from a predetermined list of phone numbers, based on a computerized pacing algorithm

Abandoned Call — a call placed by automated dialing equipment to a consumer which when answered by the consumer, either (1) breaks the connection because no live

agent is available to speak to the consumer (2) no live agent is available to speak to the consumer within 2 seconds of the consumer's completed greeting

Abandonment Rate — the number of abandoned calls over a 30-day period divided by the total number of calls that are answered by a live consumer; calls that are not answered by a live consumer do not count in the calculation of the abandonment rate

Report — reportable information that should be made available which contains key points, including the percentage of abandoned calls

USE OF PRERECORDED VOICE MESSAGING

Article #46

Marketers who use prerecorded voice messaging should not automatically terminate calls or provide misleading or inaccurate information when a live consumer answers the telephone.

Prerecorded solicitations should include the name and telephone number of the seller, service bureau, or customer service department where the consumer can call back during normal business hours to request not to receive future calls, ask questions, or get service.

Applies equally to nonprofit and commercial organizations.

USE OF TELEPHONE FACSIMILE MACHINES

Article #47

Unless there is an established business relationship with the recipient, or unless the recipient has given prior permission, advertisements, whether sent to a consumer or a business, should not be transmitted to a facsimile machine, including computer fax machines. An established business relationship is defined as those persons with whom the marketer has had a transaction/received a payment within the last 18 months or those persons who have inquired about the marketer's products/services/causes within the last 3 months.

Each permitted transmission to a fax machine must clearly contain on the first page the date and time the transmission is sent, the identity of the sender which is registered as a business with a State, and the telephone number of the sender or the sending machine.

Applies equally to nonprofit and commercial organizations.

PROMOTIONS FOR RESPONSE BY TOLL-FREE AND PAY-PER-CALL NUMBERS

Article #48

Promotions for response by 800 or other toll-free numbers should be used only when there is no charge to the consumer for the call itself and when there is no transfer

from a toll-free number to a pay call.

Promotions for response by using 900 numbers or any other type of pay-per-call programs should clearly and conspicuously disclose all charges for the call. A preamble at the beginning of the 900 or other pay-per-call should include the nature of the service or program, charge per minute and the total estimated charge for the call, as well as the name, address, and telephone number of the sponsor. The caller should be given the option to disconnect the call at any time during the preamble without incurring any charge. The 900 number or other pay-per-call should only use equipment that ceases accumulating time and charges immediately upon disconnection by the caller.

Applies equally to nonprofit and commercial organizations.

DISCLOSURE AND TACTICS

Article #49

Prior to asking consumers for payment authorization, telephone marketers should disclose the cost of the merchandise or service and all terms and conditions, including payment plans, whether or not there is a no refund or a no cancellation policy in place, limitations, and the amount or existence of any extra charges such as shipping and handling and insurance. At no time should high pressure tactics be utilized.

Applies equally to nonprofit and commercial organizations.

FUNDRAISING

Article #50

In addition to compliance with these guidelines, fundraisers and other charitable solicitors should, whenever requested by donors or potential donors, provide financial information regarding use of funds.

Relates both to nonprofit organizations and to commercial organizations working on their behalf.

LAWS, CODES AND REGULATIONS

Article #51

Direct marketers should operate in accordance with laws and regulations of the United States Postal Service, the Federal Trade Commission, the Federal Communications Commission, the Federal Reserve Board, and other applicable federal, state, and local laws governing advertising, marketing practices, and the transaction of business.

Applies equally to nonprofit and commercial organizations.

J. PROCEDURES FOR HANDLING COMPLAINTS OF UNETHICAL PRACTICES

comprised of DMA members, including representative(s) of the DMA Nonprofit Federation. The Committee acts upon receiving questions or complaints from consumers, donors, member and non-member organizations, and sometimes consumer protection or oversight agencies. If the Committee's initial review indicates no apparent violation of the ethical business practice guidelines, no further action is taken. If it believes a violation has occurred, it requests a response from the alleged offender.

Contacted organizations may respond in writing or (less commonly) by in-person or telephone call presentation. In most cases, the dialogue results in agreement about whether action needs to be taken to correct the situation. If the action is to change or modify the offending promotion or practice, the Committee asks to review the change before closing the case.

All cases are handled with complete confidentiality. The Committee does not disclose that a case was received, reviewed, or closed, with these exceptions:

- If the Committee believes there is continued violation of the Guidelines, it may publicize its findings, including the name of the violator and the facts it found in the case.
- If the complainant or alleged violator makes the complaint public, the Committee may acknowledge the receipt and review.
- If the Committee believes that a law may have been violated, it will forward the case to the appropriate law enforcement agency, and the referral may be publicized.
- If the Committee finds that a violation has occurred by a member organization, and the member does not cooperate with the Committee, it will refer the case to the DMA Board of Directors, and the referral may be publicized. Board action may include censure, suspension, or expulsion from membership; the Board may also decide to publicize the violation and the lack of cooperation. Cases closed without satisfactory resolution by member organizations will result in abeyance of action on membership renewal until satisfactorily resolved. Non-members with unresolved cases will be refused membership.



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