

The Direct Marketing Association's Commitment to Consumer Choice (CCC) is a program that adds new ethics requirements for all DMA members, including nonprofit organizations and those that work on their behalf. The new guidelines have been developed through DMA ethics committees and approved by the DMA Board of Directors in May 2007 to address major new threats to the direct marketing community.

## **BACKGROUND**

There have been many state bills introduced that propose to establish do not contact/do not mail lists. If such legislation passed, mailers would need to remove names of individuals from their lists or face fines and other penalties under the law. Most all of the state bills exempt 501 c (3) charities, but there have been some that do not explicitly carve out an exemption, although they mainly focus on "commercial" solicitations, including most recently a bill in Pennsylvania with no exemptions.

If such legislation passed, mail volume would be drastically impacted, leading to a significant increase in postal rates for all mailers that remain in the system to pay for the USPS's costs. Even if nonprofit mailers can continue to mail, the cost will be very high because there will be less mail volume overall to absorb the expenses of the USPS. Also, the mail cost for nonprofits is tied to the commercial rate by law, so if the commercial rate goes up, the nonprofit rate will also likely increase.

Further, the availability of lists for use by nonprofit organizations would be drastically impacted as the availability of names would be reduced dramatically.

States have been driven to introduce this legislation by organizations both for profit and nonprofit and consumer groups (StopTheJunkMail.com, Greendimes.com, 41Pounds.org, Earth911.org, JunkMailFreeze.com, and more) that believe reduction of mail overall will improve the environment and reduce waste.

Meanwhile, there is a strong consumer (and donor) sentiment measured in surveys that show increasing consumer annoyance and a desire for choice in receipt of mailings as well as heightened fears about identity theft in the mail stream.

The threats are mutating for the mailing community and nonprofit organizations that rely on the mail stream. The DMA has been working for several months to provide a new set of choices for consumers/donors, a multi-faceted communications program, and is marshalling an effective advocacy program at the state and federal level to combat bills that would destroy the mail as a communications channel.

Members of the DMA, including members of the DMA's Nonprofit Federation, follow the ethical guidelines that have been developed to provide best practices for the direct marketing community. The new CCC requires a higher level of self-regulation by members as outlined below. Compliance is monitored by DMA's Ethics Committees and its Board of Directors to ensure that a member remains in good standing.

## **ETHICAL GUIDELINES**

Changes made to the ethical guidelines that all members must follow:

### **Collection, Use, and Transfer of Personally Identifiable Data**

#### **Article #31**

This article is applicable to all media, and includes special requirements for mailers, including nonprofit organizations.

- A marketer should provide existing and prospective customers with notice of an opportunity to modify or eliminate direct marketing communications to be received from that company. (**Notice is required on mail pieces and will be enforced by October, 2009**) This guideline applies to senders of marketing offers, including nonprofit organizations.
- The notice should:
  - appear in every marketing offer (for nonprofits, that means every mail piece whose primary purpose is to seek a donation--not acknowledgements or informational mailings or calls for volunteers) and
  - be easy for the consumer to find, read, understand, and act upon
  - refer consumers to a web site, phone number or mailing address.
- A consumer's request should be honored:
  - within 30 days (should be entered in the marketer's database)
  - for a period of at least three years from the date of receipt of the request
- A marketer should periodically provide existing customers with notice of its policy concerning the rental, sale, or exchange of data about them and of the opportunity to opt out of the marketing process (as the above example provides). All such opt-out requests should be honored promptly.
- An in-house suppression request from a consumer should be interpreted as meaning that the consumer also wants to opt out of the transfer of his or her personal information.
- Where an affiliate, division, or subsidiary markets under a different company or brand name, and is perceived as separate by the consumer, each corporate entity or brand should separately honor requests received by it.

- A marketer should establish internal policies and practices that assure accountability for honoring requests, in compliance with this guideline, and at no cost to consumers. Should those policies substantially change, the marketer has an obligation to inform consumers of that change prior to the rental, sale, or exchange of data, and to offer consumers an opportunity to opt out of the marketing process at that time.
- For **each prospecting list** that is rented, sold, or exchanged, the applicable DMA Preference Service name-removal lists should be employed prior to use (e.g., both the Mail Preference Service and the MPS Company/Organization-Specific Opt-out list, Telephone Preference Service, E-Mail Preference Service, and Deceased Do Not Contact list). A marketer should use the MPS Company/Organization-Specific Opt-out list before contacting existing customers as well as prospective customers. The most recent monthly release of DMA's Preference Service lists should be used. Nonprofit organizations should check with their service provide to ensure they are using the DMA's Preference Service lists.
- Upon request by a consumer, a marketer should disclose the source from which it obtained personally identifiable data about that consumer.

### Opt-Out of Mailings Notice Examples:

Here are examples of notices you can add into your mail piece:

- The ABC Nonprofit rents and exchanges the names of its members in order to maintain a strong and effective membership base and to provide additional financial support for its work. If you do not wish to participate in this program, please let us know by calling (800) 123-4567 or go to <http://www.> If you no longer wish to receive any mailings from the ABC Nonprofit, go to [www.org](http://www.org) or call the "800" number listed above.
- We appreciate your support. If you wish to modify our communications with you, you may go to [www.org](http://www.org), or call 800-. (Please note one of the communications options offered on-line or on the telephone **must be** an option to opt out of all future mailings.)
- Please check here \_\_\_\_ if you no longer wish to receive mail from ABC Nonprofit and send this request to us at the following address:

Nonprofit organizations have been placing this type of notice in the section that includes state notices required by law.

## Q&A for Fundraisers

1. The rule seems to require a notice on every mail piece that requests a donation. Is that correct?

Answer: No. The rule requires a notice to potential and existing donors of an opportunity to opt-out of all future mail only on mail pieces whose “primary purpose” is to *seek* a donation. This notice is not required on mail pieces that have some other primary purpose such as educational pieces, newsletters, calls for volunteers, or advocacy mailings [by illustration, in instances of joint cost allocation under AICPA SOP 98-2 in which the mail piece has more than 50% fundraising, the notice must be included]. Also, mailings that have the explicit or implicit previous consent of the donor such as acknowledgements of donations, reminders for periodic giving programs, pledge fulfillment notices, or membership renewal mailings need not include the notice.

2. Where should the notice appear, and is there a specific font-size?

Answer: There is no stipulated size and location requirement. The rule requires that the notice be easy to find, read, and act upon. Many mailers already employing a similar notice have elected to integrate it with the state-mandated “legends”, frequently placed on the reverse of the reply device.

3. I am a fundraising agency (or other service provider to nonprofits). Do I need to *ensure* that my nonprofit client is following the guidelines under the CCC? If they refuse to comply, will I be held accountable?

Answer: No. DMA asks all its member agencies to *encourage* their nonprofit clients to follow the CCC. But a member will not be sanctioned if a client has declined to follow the CCC standards nor will the member be asked to end its business relationship with such a client.

4. What if my organization has a “federal” fundraising system, with responsibilities independently controlled and administered by regional, state or local chapters? If, for example, a “do not mail” request is submitted to my national office, will each chapter of the organization need to comply with the opt-out request?

Answer: If there is no common database, it may be virtually impossible to comply. National organizations should seek to ensure all affiliates are made aware of a donor/prospect’s request regarding individual mail preferences. But, absent the authority and technical means, a national office will not be held accountable for each chapter’s compliance.

5. Does the requirement to honor an opt-out request within 30 days mean that I have to delete the name from mailings already in progress?

Answer: No. You must arrange not to select that name *in the future* but you need not go back to correct mailings that are under way when the request was received.

6. Do I have to run the MPS list against my house file? And, do I have to do it “monthly”? Either way, this seems like a very expensive proposition.

Answer: No, the requirement to run the MPS is only applicable to acquisition mailings, not to any uses of the organization’s house file. A mailer is required to use a service bureau that has performed a monthly update of the MPS it maintains, since the DMA now updates the MPS on a monthly basis. Note that most service bureaus already provide MPS as a value-added service, free of additional charges.

## **FURTHER INFORMATION**

For more information and examples please go to the CCC web site at [www.DMACCC.org](http://www.DMACCC.org), (please note that you will need to use a pass code that you can create on-line.) You may also contact DMA Senior Vice President of Corporate & Social Responsibility Senny Boone at (202) 861-2498.

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