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Review of the Benchmarks for Industry-Based Customer Dispute Resolution Schemes

Introduction

ADMA is the principal industry body for data-driven marketing and advertising in Australia. ADMA's primary objective is to help companies achieve better results and efficiencies through the enlightened use of data-driven insights. ADMA has over 500 member organisations from a range of industries, and ranging in size from SMEs to multinational corporations.

Data-driven marketing and advertising includes any marketing communication which uses data-insights, including personal information, to engage with a consumer with a view to producing a tangible and measurable response. Data-driven marketing is platform neutral.

ADMA is also the body responsible for administering the ADMA Code of Practice and the Australian Group Buying Code of Practice. These codes incorporate industry-based customer dispute resolution schemes, using the ADMA Code Authority as an independent decision-making entity to enforce the codes. The ADMA Code Authority comprises equal numbers of industry and consumer representatives, and is chaired by an individual who is outside of the industry, a former Deputy Commonwealth Ombudsman. The Code Authority has the power to impose sanctions for breaches of these codes.

Comments on consultation questions

Where no comment is made, it can be assumed that ADMA agrees with the relevance of the underlying principles in a Benchmark.

2.1 How widely are the Benchmarks used by industry schemes? Are there any examples of how the Benchmarks are used?

2.2 To what extent do the Benchmarks act as a useful guide for industry schemes as well as consumers and industries that access such schemes? Are there any ways in which they could be improved to more effectively fulfil this role?

With reference to 2.1 and 2.2 the Benchmarks are useful in providing guidance (as indicated below), but they need to be flexible in their application for them to be more widely adopted as guiding principles because industry schemes vary greatly in size, purpose and level of maturity.

For example, the Benchmarks were used by the ACL regulators' National Group Buying Work Group led by Consumer Affairs VIC to assess the changes made to the Australian Group Buying Code of Practice, which is one of the case studies in the issues paper.

While the Code does not precisely match the Benchmarks' criteria, the feedback received by ADMA from the Work Group assisted in improving the incremental changes made to the Code – such as powers to conduct spot checks, tighter controls over numbers of vouchers sold and improved accessibility and clarity of refund policies. The changes have assisted ADMA and the industry to make significant measurable reductions in complaints since the revised Code came into effect in February 2013.

3.1 To what extent do the underlying principles and key practices under the benchmark of Accessibility remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?

It is worth noting that advances in technology mean that Accessibility is less of an issue than it was in 1997, when the Benchmarks were issued. The ubiquity of the internet, and almost universal use of websites and email for communication, has empowered consumers significantly in this regard.

3.2 To what extent do the underlying principles and key practices under the benchmark of Independence remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?

The need for the Benchmarks to be flexible in their application is paramount in relation to Independence, as industries and companies will consider resourcing levels commensurate with their size and maturity.

ADMA's Code Authority focusses its efforts on ensuring signatories and members uphold the codes. ADMA's experience has been that the level of complaints does not justify dedicated and separate staff.

However, Independence is assured by the oversight of the complaints process by the Code Authority, consisting of an independent Chair (currently a former Deputy Commonwealth Ombudsman) and an equal number of consumer and industry members (two of each).

3.4 To what extent do the underlying principles and key practices under the benchmark of Accountability remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?

ADMA's Code Authority maintains the practice of producing an annual report which includes both quantitative and qualitative reporting on complaints handling.

Accountability should remain a key Benchmark and the CCAAC may wish to consider recommending the introducing of appropriate measures to encourage and incentivize best practice.

3.5 To what extent do the underlying principles and key practices under the benchmark of Efficiency remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?

In instances where inquiries have to be referred to the most appropriate government agency or other industry body, efficiency would be improved by the CCAAC recommending that a regularly updated register of dispute resolution organisations be established and maintained.

3.6 To what extent do the underlying principles and key practices under the benchmark of Effectiveness remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?

As previously referred to, the Benchmarks played a role in the 2012-13 review of the Australian Group Buying Code of Practice.

As a result of the review the Code has been made more effective in terms of:

- improved complaints handling through a range of contact points
- defined response times for complaints
- defined resolution timeframes for complaints

3.7 Could any element of the Benchmarks including terminology or key practices be modernized in the light of subsequent developments in ADR processes or technologies?

Experience with dispute resolution in fast-changing technology-driven sectors has demonstrated the need for flexibility in the application of the Benchmark principles, to ensure the Benchmarks remain relevant.

3.8 Do each of the six benchmarks remain appropriate as part of a best practice framework for industry-based dispute resolution services and are there any additional benchmarks (and associated key practices) that could be included?

The six Benchmarks continue to provide relevant principles that guide industry dispute resolution schemes.

ADMA recommends that flexibility in the application of the principles in each Benchmark is vital for them to be seen as a guide for the wide range of industry-based customer dispute resolution schemes.

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