

Scan

Gilbert Jewel

From: Grimwade Tim
Sent: Friday, 15 August 2003 6:03 PM
To: Mayrhofer, Tania; Chenoweth Stephanie; Gilbert Jewel; Gyaneshwar Neera
Subject: FW: ADMA Code

For your attention

-----Original Message-----

From: Graham Greenleaf [mailto:graham@austlii.edu.au]
Sent: Friday, 15 August 2003 9:54 AM
To: adjudication@accc.gov.au
Cc: Chris Connolly
Subject: RE: ADMA Code

Scott Gregson
Director
Adjudication Branch, ACCC

Dear Mr Gregson,

I wish to support the request by Mr Chris Connolly, set out in the copy email below, for supplementary information on the performance of the ADMA code.

Yours sincerely,

Graham Greenleaf
Co-Director, Baker & McKenzie Cyberspace Law and Policy Centre, UNSW

Scott Gregson
Director
Adjudication Branch, ACCC

Dear Scott,

I am writing to make some suggestions about the process for authorising the revised ADMA Code of Conduct. This letter is not confidential and can be disclosed to ADMA and other interested parties.

After consideration of the information pack you sent on 29 July, and some further investigation, it seems clear that interested parties lack the information necessary for a detailed consideration of the potential 'net public benefit' of the Code.

I would like to suggest that the ACCC provide interested parties with a supplementary information pack, containing:

1. An explanation of the Code amendments

All we have received is two copies of the Code. There is no indication of what amendments have been made, and no explanation of why these amendments are being made. It is difficult for each interested party to read each copy of the (lengthy) code looking for differences.

2. Code Authority Annual reports

There have been three annual reports published by the Code Authority. These were not included in the information pack. They are not available on

the ADMA website and took me some time to obtain from ADMA directly. They reveal a great deal about the use of the Code in practice, eg:

- Less than 40 complaints are received under the Code each year
- If an ADMA member is unhappy with the sanctions of the Code Authority they can just quit membership of ADMA (as happened with a prominent television shopping company in 2000)
- Many complaints are outside jurisdiction

Without this additional information, interested parties would only be commenting on the Code's potential net public benefit "on paper", which would seem to completely miss the point of an authorisation "renewal".

3. Market share

There is no independent information available on ADMA's market share. What proportion of telemarketing, direct mail, television shopping and spam comes from ADMA members? It is difficult to comment on the authorisation without this information, and this was a controversial issue in the initial application. If the Code Authority is only receiving 39 complaints a year, there may be problems with ADMA's coverage (or promotion of the Code).

4. Independent Review

The Code (and the initial authorisation) refer to an independent review of the Code (to be conducted regularly). Any information on this issue should also be provided.

If the above information is not circulated, the interested parties will simply be providing comments on the paper version of the Code. As there has been little or no contact between ADMA and privacy/consumer advocates in the last four years, our only source of information is that provided by the ACCC or available from the ADMA website (or by direct contact).

I also suggest that consideration be given to extending the deadline for submissions, so that interested parties have time to digest this additional information.

Thank you for your consideration.

Chris

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Graham Greenleaf

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