



MRS Policy Unit

Submission to Which? task force on consent and lead generation in the direct marketing industry

Introduction: About MRS and the research market

1. The Market Research Society (MRS) is the world's largest research association. It's for everyone with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy. MRS supports best practice by setting and enforcing industry standards. The commitment to uphold the MRS Code of Conduct is supported by the Codeline service and a wide range of specialist guidelines.
2. The UK is the second largest research market in the world (second to the US) and the UK research sector is recognised as leading the way in the development of creative and innovative research approaches.
3. According to the Office for National Statistics' (ONS) Annual Business Survey¹ it is estimated that the total UK turnover of the 3,143 enterprises involved in market research and opinion polling to be £3,401 million in 2010. Further in 2012, MRS with PWC undertook an assessment of the size and impact of the UK research and evidence market, producing the MRS report *The Business of Evidence*². One of the main findings from this report is the that the UK 'business of evidence' market is substantially larger than previously estimated, employing up to 59,000 people and generating £3billion in annual gross value added (GVA).

About this response

4. We have taken into account the terms of reference of the task force as well as the questions posed in the call for evidence. As MRS does not represent businesses doing marketing or lead generation, we have instead chosen to provide our perspective on the issue of consent.

The MRS Code of Conduct and Fair Data

¹ Office of National Statistics (ONS), (2011) Annual Business Survey. Standard Industrial Classification (SIC) 73.2: Market research and opinion polling.

² See www.mrs.org.uk/pdf/The_Business_of_Evidence_Final_08102012.pdf for a copy of the full report.



5. MRS adopted its first self-regulatory Code in 1954. It has been regularly updated over the last sixty years, with the latest fully revised version of the MRS Code of Conduct scheduled to come into effect on 1 September 2014.
6. The MRS Code is centred on the principle of voluntary participation, and accordingly informed consent is a key element of the Code. We have defined informed consent as a process by which a participant voluntarily confirms his or her willingness to take part in a particular project, after having been informed of all aspects of the project that are relevant to their decision to participate.
7. In regard to data collection and processing, the most relevant aspects of the project are:
 - a. the data to be collected;
 - b. the purposes for which the data will be used; and
 - c. the parties with whom the data will be shared.
8. In 2012, MRS established Fair Data, a consumer facing trust mark to be used by consumer organisations, suppliers of research and data services, and public bodies. The first Fair Data Principle to which signatories agree to adhere is "We will ensure that all personal data is collected with consumers' consent."
9. MRS notes that under the terms of the Data Protection Act 1998, consent of the data subject is only one of six grounds for the fair and lawful processing of personal data. MRS believes however that in order to build and maintain public trust, consent is the most effective tool to meet legal and social responsibilities. This is also reflected in the ICO's recent guidance on consent in direct marketing.

Direct marketing, lifestyle questionnaires and charity fundraising

10. While MRS members and Company Partners do not in the main conduct data collection for use in direct marketing, MRS has interest in this area arising from the phenomenon of "lifestyle questionnaires".
11. A lifestyle questionnaire is a method of data collection, either by post or telephone, which solicits consumer information on a wide variety of products and services. Data collected is then sold on via data brokers to service providers or parties as leads to be targeted for sales or marketing communications.



12. These type of exercises are confusing to the public, as they use a method of data collection traditionally associated with research (a questionnaire) for another purpose which is not clearly or conspicuously identified (direct marketing).
13. A further example of this is the use of questionnaires presented as research surveys to "raise awareness" and solicit donations for charities. These exercises undermine the value of research, by linking it with promotional aims.
14. As a result, over the last three years we have noted a significant level of queries to the MRS Standards Department about calls purporting to be for the purpose of "market research". This is in line with a general increase in complaints about marketers received by TPS and the ICO, which in turn has prompted the creation of the present task force.
15. Many callers to TPS are referred onward to MRS. Very few of the calls directed to us via TPS relate to genuine market research calls, and none have resulted in breaches of the MRS Code of Conduct and/or disciplinary action against MRS members or Company Partners.
16. Nonetheless, the increase in public concern places a significant administrative burden on MRS as an organisation, increases confusion among the general public regarding genuine research and direct marketing, and negatively impacts on our members' ability to secure voluntary participation in essential market, social and opinion research projects.

Privacy seals and trust marks

17. Building on the Which? *Real Consumers: Consumer Literacy* report, an initiative which MRS has supported, the task force should consider supporting a privacy seal or trust mark that has wide recognition, to provide reassurance to members of the public and to enable confident decisions about the sharing of their personal data.
18. In order to have a credible profile any mark must be developed in such a way as to attract its adoption by high profile everyday brands familiar to the consumer. It is through this familiarity - with a seal and with the companies that use it - that a scheme can make a real difference.
19. If a narrow sector or technology approach is adopted (as has been proposed by the ICO), there is a risk of making the same mistake as the food sector with food labelling. As no one scheme was agreed and adopted, a multiplicity of schemes



were introduced and confusion with the public resulted. If certain sectors and technologies are excluded from a privacy mark, it is highly likely that other marks and schemes will come along to 'fill the gaps', resulting in confusion with the public and the 'water down' of the value of the mark. We request that Which? consider supporting Fair Data as the appropriate trust mark for data collection and use.

Other solutions

20. A key element of policing the consent and the fair use of data is better communication and information sharing between regulators, trade associations and other stakeholders. MRS has promoted information sharing in the following ways:

- a. There is currently broad agreement between MRS and the DMA on the issue of consent and we have agreed to share information about complaints to ensure that they are handled effectively by the relevant body.
- b. MRS has recently opened discussions with the Fundraising Standards Board (FRSB) about a similar exchange of information.
- c. MRS has supported Ofcom's research into nuisance calls by supplying caller line IDs (CLI) of its Company Partner organisations, so genuine researchers can be distinguished from rogue operators.
- d. MRS has a good relationship with the ICO and has referred complaints about G4S and the Conservative Party, resulting in improvements in data collection practices by both organisations.

21. The task force should consider how these practices can be encouraged across the marketing communications sector.

22. In order to protect consumers from misleading commercial practices and protect the telephone network as a channel for research, MRS proposes that the Privacy and Electronic Communications Regulations be amended to explicitly prohibit selling under the guise of research ("sugging") and any other activities masquerading as telephone market, social or opinion research (such as fund raising or data collection for direct marketing). Additionally, MRS proposes that that all telephone market, social and opinion research should be conducted in accordance with the MRS Code of Conduct. We have discussed this potential solution with the TPS, who have been supportive of this approach.



23. For further information or clarification on this submission please contact Barry Ryan, Director of the MRS Policy Unit, (barry.ryan@mrs.org.uk – 020-7566-1882)

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