

MRA Members Will...

MRA Code of Marketing Research Standards

October 2013



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Introduction

The Marketing Research Association's (MRA) *Code of Marketing Research Standards (Code)* is designed to promote an ethical culture in the marketing research profession where principles of honesty, professionalism, fairness and confidentiality combine to support the profession's success. The *Code* sets standards of ethical conduct for all MRA members applied against the background of applicable law.

The *Code* requires that MRA members – regardless of research type or approach they employ – act to instill confidence in research quality to improve its acceptance, and to encourage participation by respecting the public's rights as respondents. The *Code* addresses the responsibilities of marketing researchers to each other, the public and anyone benefiting from research and the decisions resulting from it.

The *Code* is intended to evolve with the profession. It is to be applied in the spirit as well as the letter of its principles.

Additionally, MRA's *Best Practices* dovetail with the *Code* to include conduct and considerations that describe real-world behavior expected of marketing researchers. Resources regarding specific laws and issues affecting the marketing research profession also are provided for reference. MRA's website hosts a glossary of research terms to assist readers of the *Code* as well.

MRA does not provide its members with legal advice. The *Code* is not intended to constitute, and should not be construed as providing, legal advice. If MRA members have questions about the *Code* or legal matters, MRA recommends that they consult counsel.

Applicability and Enforcement

MRA requires its members to review and commit to the *Code* as part of their membership application and annual membership renewal. In so doing, members grant MRA the authority to enforce the *Code*. The *Code* offers fair and transparent enforcement and adjudication processes to MRA members and the public. Failure to abide by the *Code* may result in a range of sanctions, including publicized expulsion from the association.

Should MRA's Standards and Ethics Committee (SEC) be made aware of circumstances where reputational damage to the profession is at risk, the SEC may begin an investigation.

Further information regarding enforcement may be found in the Enforcement FAQ section of this document before the appendices.

Review

MRA's SEC is charged with reviewing the *Code* annually or as frequently as needed to determine whether changes are warranted. The Committee's findings are then presented to the MRA Board of Directors for adoption, rejection or modification.

This edition of the *Code* is the result of an extensive review by the SEC whose members include Chairman Jay White, PRC, Elyse Gammer, Cathy Scott and Merrill Shugoll, PRC. Additional review was completed by Grant Benson, Patrick Glaser, Paul Richard McCullough, Annie Pettit and Richard Spreng. MRA's 2013-2014 Board of Directors also contributed to and approved the *Code*, aided by MRA staffers Amy Shields, Howard Feinberg, Linda Pylant, Ann Morgan and David Almy.

Article I – Responsibility to Respondents and Prospective Respondents

Each of the 42 Principles listed below should be considered to begin with “MRA members will...”

General Conduct

1. Treat respondents with respect and in a professional manner.
2. Protect the rights of respondents, including the right to refuse to participate in part or all of the research process.

Researchers must respect the bounds of cooperation set by respondents, who control the parameters under which information is given. In practice, this means all of the following:

- Respondent agreement to participate in research must be obtained upfront, rather than after the fact.
- Consent must be granted freely, without coercion.
- Consent may be withdrawn by the respondent at any point during the contact.
- Consent must be granted expressly for participation in any subsequent studies.
- An explicit opt-out request for any future contact or participation at any point during the process will be honored.
- All reasonable precautions are taken so that respondents are in no way adversely affected as a result of their participation in a marketing research project.

Exceptions: In limited circumstances of passive user data collection, no opportunity may exist for respondents to refuse to participate.

See *Principle 11* for further considerations.

3. Influence no respondent’s opinion or attitude through direct or indirect attempts, including the framing or order of questions.

During screening, prequalification or other qualification procedures and data collection, great care must be taken to source and collect information impartially so that research results accurately reflect reality.

Exceptions: Projects intending to determine how opinions can be manipulated such as message testing.

4. Protect the privacy of respondents. Keep confidential all information/data that could identify respondents to third-parties without the respondents’ consent. If such permission is given, it must be documented and the data may be used only for the purpose to which the respondent has agreed.

Exceptions: Respondent identification information may be used or revealed:

- In customer satisfaction research, where the express, expected results of all parties is that the client or client’s agent will receive the information for follow-up and the respondent has given permission for subsequent contact.
- In processing the data and merging data files.
- To append client or third-party data to a survey-based data file.
- In social listening research where usernames and userphotos are an unavoidable component; and or
- In compliance with a court order or other demand from a legal authority.

5. Proactively or upon request identify by name the research organization collecting data.

Purpose of Use

6. Obtain consent from respondents prior to utilizing their data in a manner materially different from that to which the respondent has agreed.
7. Ensure that respondent information collected during any study will not be used for sales, solicitations, push polling or any other non-research purpose.

Commingling research with sales or advocacy undermines the integrity of the research process and deters respondent cooperation. In addition, the possibility of harm from data sharing – such as health insurance companies adjusting an individual's costs based on information disclosed about their health behaviors or financial companies denying someone credit based on their propensity for online shopping – are the focus of growing public debate about Big Data and data brokers. Respondents should be assured that information shared in a study will only be used for research.

Transparency

8. Make factually correct statements to secure cooperation, including for database/sample development, and honor all promises made to respondents including but not limited to the use of data.

Exceptions: In limited instances, bona fide research projects may require, as part of their design, that respondents remain unaware of specific details such as in message testing. In such cases, upfront instructions to respondents should be truthful and furnish as much information as possible for a respondent to provide informed consent and they should be fully debriefed upon conclusion of contact, when applicable.

9. Ensure that respondents are informed at the outset if an interview or discussion is being audio or video recorded and obtain written consent if the recorded interview or discussion will be viewed by a third-party or reproduced for outside use.

The requirement for consent must be requested of the respondent if it is their specific interview or discussion that will be subject to the audio and video recording. State laws that apply to monitoring or recording may also require consent from all parties subject to the audio or video recording.

10. Not represent non-research activity as research.

Conducting commercial or political activities under the guise of opinion and marketing research undermines public trust in the profession and erodes the goodwill that makes research possible. Members will never represent non-research activities as research studies. These non-research activities include, but are not limited to:

- Questions whose sole objective is to obtain personally identifiable information (PII) about respondents whether for legal, political, direct sales, private or other purposes.
- The compilation of lists, registers or databanks of names and addresses for any non-research purpose, such as in canvassing or fund raising.

- Industrial, commercial or any other form of espionage that could cause harm to an individual or organization.
- The acquisition of information for use by credit rating services or similar organizations.
- Sales or promotional approaches to the respondent.
- Engagement or interactions with people involved in observational research, such as in social media.

Members will ensure that information collected during any bona fide research study will not be used for any sales, solicitations or push polling after the fact.

11. Provide respondents with clear notice and choice about participation when passively collecting data for research purposes from non-public sources or places, where the respondent would not reasonably expect information to be collected.

Notice and choice to the respondent is a necessary component of the survey research process. Notice must be provided in a clear and meaningful manner and at the time which the respondent provides data to the researcher. When appropriate, passive user data collection should remain unobtrusive and not interfere with people's lives.

Definition of Passive User Data Collection: Passive user data collection may involve observational or tracking-based research such as:

- Web tracking (including but not limited to: Flash, QuickTime, cookies and JavaScript).
- Manual entry into a historical profile after a conversation, email or online chat with a customer service representative.
- Certain forms of observational research such as mystery shopping, social media listening or certain ethnographic protocols.

Exceptions: Clear notice and choice about participation is not necessary in any of the following scenarios:

- For collection of online information for fraud prevention and validation purposes.
- In limited commonly accepted research practices, where offering notice and choice would unnecessarily burden and confuse the respondent, such as the practice of inferring gender in a telephone survey interview from the respondent's voice quality.
- Paradata and administrative data from research projects for quality and accuracy purposes, such as data that is captured as part of the administration of a survey or piece of research. For example, capturing the amount of time a respondent takes to complete an online survey or recording the number of attempts it takes to contact a telephone respondent. These are collected as a matter of process or for quality assurance.

12. When collecting data, maintain an internal do-not-contact database as a complement to requests made by respondents for future communications and participation in marketing research projects.

13. Collect personally identifiable information (PII), including email addresses, whether actively or passively, only with respondent's awareness or permission.

Protection of PII is enhanced by gathering only information relevant to the specific research project being conducted. Researchers should tailor methods and measurement to collect only personal data necessary for the success of the project.

If respondent identity could be deduced merely from participation in a study itself, even without PII attached, respondents must be made aware of this possibility when cooperation is initially sought.

PII is defined as any information about an individual maintained by an agency or business, including but not limited to:

- Any information that can be used to distinguish or trace an individual's identity, such as name, social media usernames and userphotos, personal website addresses, date and place of birth, mother's maiden name, biometric records or social media comments that are so unique as to be individually identifiable via a Web search.
- Any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.¹

Researchers may use respondent PII for purposes of maintaining the integrity of the data processing operations, such as matching respondent records from separate files, including appending client to third-party data to a survey-based file. In those cases, PII will be replaced with surrogate identifying codes, untraceable to individual respondents, upon completion of data processing operations.

In maintaining respondent privacy, members must comply with all applicable laws, regulations, ordinances and existing policies and terms of use requirements in which the PII is obtained or collected. This means consulting with appropriate legal counsel and staying current with existing and proposed legislation and regulation affecting the profession.

- 14. Compile, maintain and utilize Internet samples of only those individuals who have provided their permission to be contacted for marketing research purposes and those who have a reasonable expectation based on an existing business relationship that they will receive invitations for marketing research purposes.**

Technical Compliance

- 15. Consider data privacy a fundamental part of planning and the research process, and maintain a clear, concise and easy to understand privacy or terms of use policy that describes the ways respondent data is collected, used, disclosed and managed.**

Privacy of respondents should receive consideration at the highest levels by individual marketing researchers and companies so that every employee in the business understands how they are responsible for protecting respondents' confidential information.

A respondent privacy policy must be established prior to any contact with respondents and should be comprehensive, covering all respondent information, under all conditions, all the time, with potential exceptions anticipated and planned for. The privacy policy should address data retention and disposal issues as well.

Additionally, privacy policies should be stated plainly, minimizing jargon, and be understandable by the public without a legal or research background. Policies should be easily accessible by online and offline means and available not only at the time cooperation is sought, but upon demand at any time after data are gathered.

It is important to detail exactly how personal information may be used, and then adhere only to stated uses. Any additional material use or change in use of PII requires specific, advance written or recorded approval from respondents.

¹ Definition based on: the GAO expression of an amalgam of the definitions of PII from OMB Memorandums 07-16 and 06-19. GAO Report 08-536, Privacy: Alternatives Exist for Enhancing Protection of Personally Identifiable Information, May 2008, <http://www.gao.gov/new.items/d08536.pdf>. See also [National Institute of Standards and Technology, Special Publication 800-122](#), p. ES-1 (2010).

The privacy policy should include a contact mechanism; ideally a phone number, email or Web address containing contact information, and a mailing address to which questions or comments may be submitted. All feedback should be acknowledged upon receipt and replied to, as necessary, as soon as is feasible.

Online surveys must include access (such as via a link) to a privacy policy.

Fundamental data privacy planning includes:

- Implementing industry standard physical, technical and administrative safeguards to protect respondent data.
- Limiting data collection to information necessary to inform research question(s).
- Limiting data usage to those purposes communicated to, or that might be reasonably expected by respondent.
- Informing respondent of the possibility for re-contact for follow-up.
- Retaining data in as anonymous a form as possible while maintaining data integrity.
- Establishing reasonable limits to the time data will be retained before disposal.
- Disposing of data safely and securely.

16. Take special care and adhere to applicable law when conducting research across state and national borders and with vulnerable populations, including but not limited to children.

Specific laws and regulations govern research among these groups, and it is incumbent upon marketing researchers to ensure compliance obligations for all vulnerable populations are met, regardless of any specific interviewing method or response technology in use.

Research among children requires knowledge and adherence to unique precautions that apply to all respondents under the age of majority, i.e. minors.

Other vulnerable groups include but are not limited to:

- Elderly/aged persons
- Cognitively impaired persons
- Prisoners
- Patients or others with medical issues

Each of these groups may be covered by situation or class-specific regulations, such as the *Health Insurance Portability and Accountability Act (HIPAA)* or the *Children's Online Privacy Protection Act (COPPA)*.

See *Appendix B* for best practice, specific law and issue resources.

17. When having the responsibility of creating products and services for use by respondents, provide products and services that are safe and fit for their intended use, are labeled in accordance with all laws and regulations, and provide the means to make the respondent whole should problems arise, in part by including emergency contact information.

Article II – Responsibilities to Clients and Vendors

18. Honor legal obligations and practices and pursue alternative dispute resolution in good faith regarding disagreements with business partners prior to litigating those disputes.

Work must be performed as specified in the agreement with the client. Changes to work specifications, project plans, etc. may not be made without the express permission of the client.

19. As with the commitment to respondent privacy, maintain trusted relationships with clients and research sponsors by keeping confidential all sensitive or proprietary research techniques, methodologies and business information. Maintain the confidential identity of clients and research sponsors.

Exceptions: Information may be revealed in compliance with the request of a legal authority or when clients or research sponsors provide written consent to disclose their identity.

20. Induce or engage no research partners, vendors or clients in any unacceptable activity or practice as stated in the Code or any activity or practice that is prohibited or illegal under any applicable laws, regulations and ordinances.

See *Appendix B* for best practice, specific law and issue resources..

21. When conducting secondary research, inform clients of the source of secondary research and not misrepresent it as primary data.

Secondary research (also known as desk research) involves the summary, collation or synthesis of existing research rather than primary research, where data is collected from, for example, research subjects or experiments.

The term is widely used in medical research, legal research, and in marketing research. In a marketing research context, secondary research is taken to include the re-use by a second party of any data collected by a first party or parties.

Sometimes secondary research is required in the preliminary stages of research to determine what is known already and what new data is required, or to inform research design. At other times, it may be the only research technique used.

A key performance area in secondary research is the full citation of original sources, usually in the form of a complete listing or annotated listing.

Secondary sources could include previous research reports, newspaper, magazine and journal content, and government and NGO statistics.

22. Be granted prior approval, if all or part of the work on a project is to be combined or syndicated with work for other clients, or if the same is to be subcontracted to another entity outside the researcher's organization.

23. Avoid any conflict of interest, real or perceived, in accepting work from multiple clients, particularly clients in competing or similar markets or lines of business. If any conflict of interest – real or perceived – exists, the member will notify all parties of the conflict and obtain acknowledgment of the conflict and written confirmation to proceed.

Accepting work from competing clients does not automatically present a conflict, provided that project resources are never commingled and confidentiality is fully maintained. It is imperative that researchers establish safeguards to keep each client's data separate and protected from others at all times.

24. Ensure that research conducted is the property of the commissioning party or client(s). At no time may such research be shared with other entities without the express written permission of the original client(s).

25. Provide detailed written or verbal study instructions to those engaged in the data collection process.

Accurate data can be obtained only when all parties to the research process are committed to quality. Principal investigators must ensure that staff involved in sampling, fieldwork, data processing, analysis and other facets of a study receive appropriate, detailed instructions so that operations are completed as planned.

Documentation should be created and preserved at every step of a project so that subsequent investigators can understand and replicate study findings.

26. Ensure that business partners, their employees and subcontractors involved in the data collection process take reasonable precautions to ensure that no conflict of interest, real or perceived, exists based on the simultaneous participation of a respondent in multiple studies without obtaining explicit permission from the sponsoring client(s).

27. Ensure that all research materials provided by the client, or generated as a result of materials provided by the client, remain their property unless otherwise stipulated in a contract or other work agreement.

28. Ensure that all project materials be retained or disposed of upon the expiration of the research activity as agreed upon based on the contract or work agreement with the client.

29. As time and availability permit, afford the client(s) the opportunity to monitor studies in progress to evaluate research quality and adherence to work agreements, and inform clients of quality control procedures in place upon their request.

30. Offer guidance to clients as to the appropriateness of the methodology being employed and sample selected to the fullest extent possible on each project.

Laypersons often do not have the necessary knowledge or experience to conduct research or to properly interpret data and recommend courses of action based upon that interpretation. Members must educate clients and the public in the proper methods and execution of marketing research, and use of research findings. When researchers are made aware of instances in which clients are improperly interpreting or otherwise using research, a professional duty exists to advise the errant party in the proper understanding or application of the data.

31. Provide business partners sufficient detail and transparency as to the objectives and design of a research project in order for them to gauge the appropriateness of their participation.

32. Respect that all information contained in an interviewing facility, sample provider or similar database, or held by an independent recruiter, is the sole property of those entities and are not to be acquired for any business purpose without express written consent of the owner.

Observe all licensing or use restrictions imposed by database or facility owners. Under no circumstance will a member retain possession or make use of database information outside the scope of the original agreement.

33. When using a purchased sample, comply with obligations under law and the requirements and limitations placed on data usage by data owners, including list brokers, database compilers and sample providers.

Common sample requirements and limitations include but are not limited to these examples:

- Submission of questionnaire documents when requested.
- Limitations on use of sensitive material including data on children, medical conditions and financial information.
- Other areas deemed sensitive by the list provider or owner.
- Not using sample or lists for any purpose other than legitimate research purposes.
- Holding household and personal data contained in sample information in the same strict confidence as collected survey data and using it only for the purposes of stratification, selection or control of survey sample or in tabulation of aggregate results.
- Ensuring that information derived from the sample will not be used for individual marketing efforts, i.e. no marketing action can be taken toward an individual respondent as a result of their survey information or participation as a survey respondent.

34. Calculate research metrics such as incidence, performance measurements such as response rates, error measurements such as sample margin of error, and other formulas according to commonly accepted industry practices.

35. Inform clients at their request of archiving, storage, and technical security procedures, as well as software name, producer and version being utilized for their work (if a data processing company).

Article III – Professional Responsibilities

36. Build public confidence in marketing research.

Marketing research is able to exist as a profession because society values the functions served by researchers, and trusts that research will be performed with transparency, integrity and responsibility. In order to maintain that trust, researchers must never act in ways that abuse public confidence in the profession.

37. Report research results accurately and honestly.

During data analysis and presentation of findings, researchers must strive for objectivity so that the data “speak for themselves.” Such objectivity need not preclude the formation of researchers’ own opinions or recommendations regarding findings. Instead, objectivity means that researchers analyze data impartially and let their opinions and recommendations be guided by the results of those analyses, rather than tailoring analyses to support preconceived agendas or biases.

Additionally, regardless of method, researchers should include in the report, or provide upon request, the following minimum information:

- Identification of the research organization and sponsoring client for which the project was conducted
- Objectives of the research
- Dates on which data were collected
- Sample – All sample-based research (qualitative and quantitative) should state parameters of the sample design employed. These include information on:
 - Population of interest
 - Probability or non-probability design, with specifics on selection method, such as simple random, multistage, etc.
 - Estimated population incidence of sample elements or segments
 - Sampling frame and estimated degree of population coverage
 - Sample size
 - Cooperation and or response rates, as appropriate
 - Margin of error on the total sample and key segments of interest (for probability designs)
- Weighting
 - Type and calculation of any weighting scheme used for sample balancing and or population projections
- Procedure/Data Acquisition
 - Recruitment method, including respondent contact protocols and selection procedures
 - Sample questionnaires, discussion guides, stimulus materials, etc.
- Analytics
 - Description of unit(s) of analysis
 - Data cleaning procedures
 - Mathematical or statistical computations or tests of significance (as applicable)
- Specifics by Mode
- Methodological limitations

See *Appendix A* for consideration of additional details relevant to specific research methods or project types.

38. Never falsify or omit valid data at any phase of a research study or project.

The success of business decisions depends in part upon having accurate information about the environment in which businesses operate. Professional marketing researchers serve an invaluable function by gathering and interpreting marketplace intelligence and must never misrepresent, falsify or omit valid data at any phase of the research process.

39. Provide appropriate disclosure of methods for all research released for public or media consumption.

Disclosure of methods statements as appropriate to include:

- The method of data collection used
- The date(s) of data collection
- The sampling frame
- The sampling method
- The sample size
- The calculated margin of sampling error

40. Not misrepresent qualifications, experience, skills or resources in the performance of marketing research and not refer to membership in the MRA as proof of competence.

41. Honestly characterize the impact of research methods and methodologies to clients, vendors and other stakeholders.

42. Avoid any discussion of or participation in any action to eliminate, restrict, or govern competition among businesses serving the industry.

Enforcement FAQ

What is the SEC and who comprises it?

The SEC is a standing committee of the MRA's membership and is formed by authority of MRA's Board of Directors to manage the association's professional standards, including enforcement of its compliance.

SEC members reflect a variety of experiences and interests relating to marketing research and will include an attorney as needed to act in an advisory capacity with no voting rights on the committee. The members of the SEC are listed on the association's website.

The Chairman of MRA's Board of Directors may replace any SEC member who has become unable to perform their duties.

How does the SEC operate?

Decisions by the SEC require a majority vote of all members serving on the committee.

Any member of the SEC having a conflict of interest in a complaint will withdraw from any consideration of the complaint.

Deliberations of the SEC are confidential and will not be disclosed to anyone other than pertinent members of MRA's Executive Committee, professional staff and experts needing access to the information to enable them to formulate expert opinions. Records of the SEC are securely maintained at MRA's headquarters.

All parties given access to confidential documents will be required to sign a confidentiality agreement.

Who can file a complaint?

Any person, company or organization directly affected by an alleged infringement of the *Code* by a member may file a complaint.

Should MRA's Standards and Ethics Committee (SEC) be made aware of circumstances where reputational damage to the profession is at risk, the SEC may begin an investigation.

How are complaints filed?

Complaints should be filed via:

- An online form located at www.marketingresearch.org/Code
- Email to sec@marketingresearch.org
- Mail addressed to the Standards & Ethics Committee, Marketing Research Association, 1156 15th Street NW, Suite 302, Washington, DC 20005

Complaints must include all of the following information:

- Statement of the case
- The *Code* principle(s) allegedly breached
- Supporting documents and other evidence
- Name and contact information for complainant
- Name and contact information for member committing alleged violation

How does the enforcement process work?

Initial Review: On receipt of a complaint, MRA's CEO or designee, after consultation with the chair of the SEC, will examine cases of possible *Code* violations to establish the facts and circumstances of the complaint, including raising questions directly with the member(s) concerned. This investigation will determine which, if any, *Code* articles have been breached.

Disclosure of Complaint: If the SEC determines that a breach may have occurred, the alleged violator of the *Code* is provided with a written description of the complaint including supporting documentation, naming the *Code* provisions allegedly breached, and the name of the complainant.

Alleged Violator Cooperation: Members are expected to cooperate in complaint investigations. All individual MRA members consent to MRA notifying their respective employers about any allegations that the member violated the *Code*. In connection with any such notice to an employer of an individual MRA member, MRA will invite the employer to participate in the enforcement process and to designate a primary contact with appropriate knowledge and authority to respond and participate on behalf of the employer. In the case where a complaint is filed against a company, the primary contact will respond on behalf of the company or designate a representative with appropriate knowledge and authority to respond on their behalf. Failure to cooperate will lead to sanction.

Decision: With all facts and circumstances collected from complainant and alleged violator, the complaint will be adjudicated within 20 business days. The SEC's findings regarding the complaint as well as any penalty to be imposed will be provided in writing to the alleged violator. This may include reasoning for the dismissal of a complaint. In any case that appears to be so serious that a sanction will be imposed, the SEC will inform the MRA Executive Committee. The SEC may require a violator to submit a plan for remedial action and for prevention of recurrence.

Response: The SEC will allow the violator a maximum of 20 business days to provide a written response to the SEC's decision. The SEC will respond in writing within 20 business days to the violator's response.

Suspension Pending Legal Resolution: Any SEC action regarding a *Code* infringement may be suspended until the resolution of an external legal case involving an issue related to the complaint.

Appeal: The violator may appeal the SEC's decision to MRA's full Board of Directors. Appeal requests must be in writing and received by MRA's CEO within 20 business days of the SEC's decision. Appeal requests must identify all bases for the appeal. The SEC may participate in the appeal process before the Board of Directors.

Expenses: Out-of-pocket costs incurred in defense of an alleged violation will not be reimbursed.

Applicable Law: All disputes arising out of or in connection with the *Code* and the enforcement process shall be governed by U.S. law as may be applicable. MRA and all MRA members each consents and submits to the exclusive jurisdiction and venue of any state or federal court in the District of Columbia with respect to any legal action or proceeding arising with respect to the *Code* and waives all objections to such jurisdiction and venue.

How is appropriate sanction determined?

In imposing a sanction, the following will be taken into account:

- The number and severity of *Code* violations
- Any previous violations
- The violator's capability and willingness to comply with the *Code*

What types of sanctions may be imposed?

The SEC may impose the following types of sanctions:

- **Warning** – An informal condemnation which may be delivered orally or in writing.
- **Reprimand** – A formal censure, in writing.
- **Suspension** – Suspension of membership in MRA for a duration of no less than six months. At the end of the suspension, the member may be reinstated by the SEC if remedial action has been taken to ensure that the violation(s) named in the complaint will not be repeated. If remedial action is not taken or is considered insufficient, the SEC may consider imposing expulsion.
- **Expulsion** – If a member is expelled from MRA, they can apply for reinstatement no less than one year after expulsion and must provide a written assurance that remedial action has been taken to ensure that the violation(s) named in the complaint will not be repeated. All decisions regarding reinstatement will be determined by the SEC and will be considered final.

How are sanctions communicated?

Sanctions imposed by the SEC may be published on MRA's website, in MRA's magazine or equivalent and by notifying relevant marketing research associations or other bodies.

Publication may include a summary of the decision, the name of the member and the sanction.

The complainant's name should never be included in the publication of a sanction unless specifically requested by the complainant. Details on filing and investigating complaints and enforcing sanctions against violators may be found at <http://www.marketingresearch.org/filing-and-enforcing-complaints>.

At the SEC's discretion, sanctions may include notification of authorities or any further measures that are authorized by MRA's Board of Directors.

What if the MRA membership of an alleged violator or violator lapses?

If a member subject to a complaint resigns or their membership is withdrawn through reason of non-payment of membership dues while the matter is unresolved, the SEC is entitled to examine the matter and impose sanctions. Readmission to membership will not be granted until any outstanding disciplinary process has been completed and dues paid.

Legal Considerations

Disclaimers

Appendix B and the resources referenced therein and any other materials referenced in the *Code*: (a) are not, and should not be construed as, an exhaustive or comprehensive list of information, resources and potentially applicable laws; (b) are for informational purposes only and for the convenience of MRA's members; and (c) are not for the purpose of providing legal advice. Legal information is not the same as legal advice, which is in the nature of the application of law to a person's specific circumstances. Although the association takes steps to make sure *Appendix B* and the resources and materials referenced in the *Code* are accurate, current and useful, MRA recommends that its members consult a lawyer if they want professional assurance that any legal information (and the members' interpretation of it) is appropriate to any particular situation. MRA may amend *Appendix B* and any references in the *Code* to legal information at any time by posting the amended version of the *Code* on its website. Because the law changes rapidly, is different from jurisdiction to jurisdiction, and also is subject to varying interpretations by different courts and certain government and administrative bodies, MRA cannot guarantee that all the information on *Appendix B* or otherwise in the *Code* is completely current. The association does not represent or warrant the accuracy, applicability, or current nature of the legal information or items referenced in *Appendix B* or elsewhere in the *Code*. The law is a personal matter, and no general legal information can fit every circumstance. MRA members should contact their own attorneys to obtain advice with respect to any particular issue, problem or question.

Interpretation/Conflicts

To the extent of any inconsistency or conflict between the terms and provisions of the *Code* and any *Best Practices* or other guidance or materials issued by MRA (except for its *Bylaws*), the terms and provisions contained in the *Code* shall govern. To the extent of any inconsistency or conflict between the Principles of the *Code* and any rationale for those principles set forth in the *Code*, the Principles shall govern. To the extent of any inconsistency or conflict between the terms and provisions of the *Code* or Principles and law applicable to any member, the applicable law shall govern; provided, however, that a member may not use applicable law as a defense to an alleged violation of the *Code* if the *Code* requires more of a member than applicable law requires of the member. It is expected that, notwithstanding anything in the *Code*, MRA members will comply with applicable law. If any term or provision of the *Code* shall be unlawful, void, or for any reason unenforceable, then that term or provision shall be deemed severable from the *Code* and shall not affect the validity and enforceability of any remaining terms and provisions of the *Code*.

Appendix A – Mode-Specific Considerations

Data Mining

Proprietary vs. Public Data

For proprietary data, permission must be obtained for (1) initial access to data records; and (2) each desired instance of release of PII. In contrast, although no permission is needed to access public records, researchers should still obtain individual respondents' permission before releasing PII, even when that information is in the public domain. In cases where obtaining permission is impossible (such as deceased respondents), only details already available publicly may be published. PII obtained through means other than public sources, and subsequently merged with public information, may not be published without respondents' express written permission.

Copyright

Researchers should seek appropriate legal counsel on the suitable use of published social media data. Although social media records may be available publicly, they are not necessarily in the public domain and may be protected by copyright. Unlicensed access may or may not be permitted under fair use doctrines, and care is recommended in exploring this still-evolving area.

Social Media

Social media data may comprise either private or quasi-public records. Researchers analyzing social-media should follow particular data mining guidelines depending on the private or quasi-public nature of the specific information sampled, while also observing any requirements stipulated by the data provider.

Geolocation Tracking

Passively tracking respondents' locations is an activity that spans several modes of contact (such as cellular/wireless connections for both voice and data; wireline telephone; cable or other IP-based infrastructure, etc.). At present, this remains a controversial area which is open to extensive scrutiny and public sensationalism. As a result, and considering evolving laws, MRA recommends opt-in as the best practice.

Mystery Shopping

MRA considers mystery shopping a legitimate form of marketing research when it is employed for customer-satisfaction purposes; that is, to determine likely customer perceptions and needs. It is not considered marketing research when it is used for non-research purposes, such as identifying individuals for disciplinary actions, falsely elevating sales by creating a demand for products or services that does not really exist in the marketplace, or obtaining personal information for non-research purposes.

Telephone

Telephone-based interviewing is governed by several sets of regulations, which may differ for wireline and mobile numbers.

Appendix B – Best Practice, Specific Law and Issue Resources

Please visit www.marketingresearch.org to review additional information on the following topics:

Best Practices

Designating a Privacy Officer: Best Practices for Researchers
Developing a Privacy Policy: Best Practices for Survey and Opinion Researchers
Components of an Online Privacy Policy
Developing Internal Do-Not-Contact Lists: Best Practices for Researchers
Developing A Data Retention Policy
Involving Employees in Data Security Efforts
Responding to a Data Security Breach
Data Security of Wireless Networks: Best Practices for Researchers
Data Disposal: Best Practices for Survey and Opinion Researchers
Developing a Deceased Respondent Policy
Financial Privacy: Best Practices for Survey and Opinion Researchers
Best Practice Guidelines on HIPAA
Creating E-mail Subject Lines
Sending E-mail: Best Practices for Survey and Opinion Researchers
Caller Identification: Best Practices for Survey and Opinion Researchers
Call Monitoring/Recording Notification: Best Practices for Survey Researchers
Calling Cell Phones: Best Practices for Survey Researchers
Conducting Automated Polling (IVR & Robocalls): Best Practices for Researchers
Sending Faxes: Best Practices for Researchers
EU Data Directive: Best Practices for Survey and Opinion Researchers
IMRO Guidelines for Best Practices in Sample and Panel Management
MRA Guide to the Top 16 Social Media Research Questions
Recommendations for Improving Respondent Cooperation
How to Respond to Respondent Questions about Research
Research with Minors

Specific Laws

The Human Subjects Rule: CFR – Code of Federal Regulations Title 21 – Part 50
Office for Human Research Protections (OHRP), which oversees the Human Subject Rule (and Institutional Review Boards) for federally-funded research
FTC Releases New FAQs on the Children’s Online Privacy Protection Act (COPPA)
FTC: All About COPPA

FTC: COPPA FAQs

International Age of Majority Laws

Financial privacy: The Gramm-Leach Bliley Act of 1999

The Health Insurance Portability and Accountability Act – HIPAA

Physician Incentives: State and federal laws on payments to physician respondents in pharmaceutical and medical device marketing research

FAQs for Compliance with the Physician Payments Sunshine Act

Physician Payments Sunshine Act - A Joint MR Regulatory Alert

State Data Security Breach Notification Laws

Overview of California's Online Privacy Protection Act, governing privacy policies online

Compendium of Laws on Telephone Monitoring

U.S. Fax Law

Understanding the European Union (EU) Data Protection Safe Harbor

Research in Canada and the Personal Information Protection and Electronic Documents Act (PIPEDA)

State Listing of Independent Contractor Tests: A State-by-State Assessment

Frequently Asked Questions - The Research Profession and the Law

Issue Resources

Push Polls - Deceptive Advocacy/Persuasion Under the Guise of Legitimate Polling

Research Industry Position on the Physician Payments Sunshine Act

The Research Profession's Position on Classification of Respondents

Brand Equity Measurement

Calculating Survey Non-response Metrics

Mixed-Mode Surveys

Paradata in Survey Research

Calculating Return-on-Investment for Marketing Research

Survey Nonresponse

Privacy in the Workplace

Privacy Policy Checklist

Ethical and Legal Considerations in Recruiting

Discovery of Electronically Stored Information in Civil Cases

Contract Template Language and Model Agreements

Respondent Bill of Rights

Federal Communications Commission (FCC)

Federal Trade Commission (FTC)