Peter Mouncey played a key role in the senior management team behind the Automobile Association's (AA) success as the UK's leading motoring organization, and since leaving the AA has worked as a consultant in marketing-related fields. He is Editor of the *MRS International Journal of Market Research*, a member of the Market Research Standards Board, and he also specializes in data protection and survey research. He is part time Director of Research at the Institute of Direct Marketing, and is on the Executive Editorial Board of the IDM's journal. Mouncey has published papers in a variety of journals, as well as being joint Editor of 'Market Research Best Practice, 30 visions for the future' (Wiley/ESOMAR, 2007) and joint author with Malcolm McDonald of 'Marketing Accountability' (Kogan Page, 2009).

MRS Code 2010

ICO ruling on incentives

Legal and Regulatory Update

Revisions to the Market Research Society (MRS) Code of Conduct

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Following a lengthy period of consultation with Market Research Society (MRS) members, a revised version of the MRS Code of Conduct came into force on 1 April 2010.

While the Code only applies to members of MRS, it is viewed by regulators such as the Information Commissioner as the key code and guidelines covering the market and social research sector. In addition, clients of the research sector need to be aware of key changes to the Code, as these can have implications for the projects they commission.

The Code was radically overhauled in 2005, but the revised version contains a few significant changes, reflecting in particular the dynamic nature of data privacy regulation within the UK, and Europe in general.

The main change that clients need to be aware of is that, following a ruling last year from the Information Commissioners Office (ICO), client-sourced incentives or 'thank you' gifts can no longer be used in market research projects. An incentive is defined as 'any benefit offered to respondents to encourage participation in a research project'. This ruling covers client products, and, any vouchers, coupons or loyalty points that can be used to purchase the client's goods or services. Therefore, for example, a local authority would not be able to offer vouchers for respondents to use their leisure centres neither could a rail company or a cinema chain offer free tickets to use their facilities. The reason for this is that ICO sees such incentives as promoting the organization, and therefore a form of direct marketing, divorced from the objectives of a research project as research, should not contain a commercial message or promote the aims and ideals of the client. In their ruling, ICO concluded that: 'I do not believe that I can sensibly conclude that offering a company's own goods or services as an incentive to encourage participation in research does not involve promotion of that organisation'. Projects that use client-sourced incentives/thank yous are therefore promotional exercises, rather than research, and need to adhere to the additional clauses in the UK data protection legislation covering direct marketing. This ruling would also

Interviewing children and young people

apply to any online surveys in which respondents were routed to the client's website at the end of the interview. MRS has also updated its 'Regulations on Using Research Techniques for Non-Research Purposes' to reflect this ruling, and is introducing a new guideline covering the use of incentives.

The second main change is to remove the anomaly that allowed under 16s to be interviewed on-street without parental (or a person acting in loco parentis) consent, bringing this interview method into line with all other methods.

A third change is to underline the importance of gaining the respondent's permission to be re-interviewed at the initial interview.

Finally, the definitions in the Code have been widened to reflect the impact of new research methodologies that do not always involve a traditional interview with a respondent, such as in web 2.0 research.

The revised Code and associated Regulations and Guidelines can be found on www.mrs.org.uk

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Whither data protection Law?

Data protection in Europe — A cloudy future

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The European Convention of Human Rights supported by the Data Protection Convention (109) of the Council of Europe, enshrines privacy as a human right in Europe. This may suggest some ancient and well-established body of law buried deep in European history — perhaps dating back to the French Revolution, or deeper into the mists of time to one of the great medieval bills of rights — the Magna Carta, or the Basque Constitution of Guernica, for example. In fact, as the poet Milton put it '... to the public good/Private respects must yield', few in the past recognized a need for a right to privacy — 'an Englishman's house is his castle', but there were always major caveats, in particular the right of the state (public good) to intervene. It took the collection of personal data designed to subjugate the individual in the mid-twentieth century to waken a real desire to safeguard privacy.