



Implementation of Consumer Complaints and Marketing & Advertising Standards

March 6, 2024

Timeline

November 2, 2023	Announcement of Board-approved Consumer Complaints and Marketing & Advertising Standards with an implementation date of April 1, 2024
April 1, 2024	New Standards go into effect
June 1, 2024	Auditing of new Standards begins

This presentation includes highlights of AADR's Consumer Complaints and Marketing & Advertising Standards.

It is not a complete list of Member Company requirements.

Each AADR Member Company is responsible to ensure they are compliant with AADR Standards and Federal and State laws, rules, and regulations.

Consumer Complaints

Consumer Complaints - Make it Easy

- ▶ Make It Easy. In addition to a toll-free customer service telephone line, each AADR member company shall provide on its website a clearly labeled active hyperlink that makes it easy for a consumer to contact the Member to ask a question or express a concern about any aspect of the consumer's debt resolution program. The hyperlink should be easy to find and not require more than one click-through from the Member's homepage to bring the consumer to the Member's contact portal.
- ▶ Audit will confirm toll free number.
- ▶ Audit will confirm consumer link.
- ▶ Audit will confirm location of consumer link - not more than one click off of homepage.

Consumer Complaints - Be Transparent

- ▶ Be Transparent. AADR member companies shall create and adopt written consumer complaint policies and procedures that are compliant with the standards set forth herein. A Member's consumer complaint policies and procedures must be accessible to consumers through the Member's website.
- ▶ Policy & Procedure document(s) should list that it applies to consumer complaints from both consumers and AADR.
- ▶ Audit will confirm existence of Member Company's Consumer Complaints Policy & Procedure. Suggestion: To include if complaint received from AADR,
 - ▶ Acknowledgment to AADR of receipt.
 - ▶ Acknowledgment to customer within two business days of receipt.
 - ▶ Correspondence to resolve forwarded to AADR.
 - ▶ Complaint should be resolved within 30 days of receipt of Member Company.
 - ▶ After good faith efforts, unable to communicate with or satisfy customer after 30 days, may close complaint and notify AADR Head of Compliance in writing.
 - ▶ Will respond to AADR's request for a 30-day status update within 5 business days.
 - ▶ Customer can file a complaint or an appeal to AADR.
 - ▶ Complaints against third-party providers will be treated as the same as Member.
 - ▶ A written record of the consumer's complaint should be retained in the client's file and for non-clients, a record is to be kept for at least two years.
- ▶ Audit will confirm location of Member Company's Consumer Complaints Policy & Procedure on Member's website.

Consumer Complaints - Don't Delay

- ▶ Don't Delay. The AADR encourages prompt and direct resolution of consumer complaints; accordingly, within two business days of receipt of a consumer complaint (either directly from a consumer or from the AADR, as discussed below), a Member shall reach out to the consumer and (i) acknowledge receipt of the complaint and (ii) advise the consumer of a reasonable timetable for the Member's response, which should be no more than 30 days from the Member's receipt of the complaint. If, during the inquiry, the Member determines that additional information is required, the Member shall promptly request such information from the consumer.
- ▶ Audit will confirm timetable of response to customer.
 - ▶ Within two business days of receipt of complaint - date received and date responded.
 - ▶ Resolved within 30 days or reason(s) why.
- ▶ Audit will confirm content of response - timetable to resolve and request for additional information, if needed.

Consumer Complaints - And if it Doesn't Work Out

- ▶ And If It Doesn't Work Out. If the consumer does not feel that they have received a satisfactory response to their complaint, the consumer may file a complaint with the AADR through the AADR Consumer Complaint Resolution portal.
- ▶ Audit will confirm right of customer to file a complaint or appeal with AADR included in Member Company's customer complaints policy and procedure document(s).

Consumer Complaints - Record Retention

- ▶ Record Retention. Members should retain a written record of all complaints in the client file of the consumer (if the consumer is a current or former client) and for not less than two (2) years for non-client complainants.
- ▶ Audit will confirm timetable of retention.
 - ▶ Ongoing in client file.
 - ▶ At least two years for non-clients.

Compliance Violations

- ▶ Compliance Violations. A “compliance violation” shall mean an alleged or suspected violation of a federal or state rule or regulation, including but not limited to the TSR and/or any AADR Standards that (1) have been adopted by the AADR Executive Board and (2) are applicable to such member. A complaint may be filed by a consumer, a federal or state regulator, a State Attorney General, the AADR, or another Member.
- ▶ Member company, if complainant, to respond to Head of Compliance’s request for additional information within two business days.
- ▶ Member company to acknowledge, to the Head of AADR Compliance, the receipt of the compliance violation complaint.
- ▶ Commercially reasonable good faith efforts to resolve minor compliance violations within 30 days.
- ▶ Third-party service providers’ violations complaints to be treated as a complaint against the Member.
- ▶ Members should retain a written record of all compliance complaints for such period as counsel advises.

Marketing & Advertising

Marketing - Business Names

- ▶ Business Names Business names under which debt resolution services are marketed to consumers in a given state shall, if required by law or regulation, be registered with the appropriate agency(ies) in that state....
- ▶ Disclosure of Service Provider: Advertisers of debt resolution services (including for this purpose lead generators) (“Advertisers”) shall not misrepresent the identity of the actual provider of the services offered to consumers....
- ▶ DBAs Shall Not Mislead: DRSPs shall not use any DBA that falsely implies that the DRSP is a financial institution or a government agency, or a name substantially similar to the name of another DRSP, any financial institution, or any government agency.
- ▶ Audit will collect and review names as part of the Audit Declaration and send to AADR.

Marketing - Marketing Materials

- ▶ Marketing Materials. DRSPs are responsible for the marketing efforts of any Advertiser engaged in the offering of debt resolution services on behalf of that DRSP and, as such, shall use reasonable efforts to ensure that all marketing materials used by both the DRSP and such Advertiser(s) comply with the provisions of these guidelines. “Reasonable efforts” means, at the minimum, (i) requiring Advertisers marketing debt resolution services on behalf of such DRSP to adhere to these marketing guidelines and (ii) performing a retrospective review of substantially all marketing materials used by any Advertiser marketing debt resolution services on behalf of such DRSP, with reviews occurring not less frequently than once every six months.
- ▶ Audit will require supporting evidence that the Member Company can confirm their own and their Advertisers’ content be reviewed at least every six months.
- ▶ Audit will review content and confirm:
 - ▶ Program Representation - if specifics made, terms and limitations, disclosed... Will use FTC definition of clearly and conspicuously. See footnote in Standards document.
 - ▶ Use of Plain Language - clear, concise description...
 - ▶ Description of Services - Not, directly or by implication, indicate legal, tax, accounting or other services are being provided unless DSRP can lawfully provide such services in the state in which the offer is being made...
 - ▶ No False Affiliations - Not falsely state or imply that DSRP is in any way associated with a bank or specific creditor.

Marketing - Guarantees

- ▶ Guarantees. For purposes of these Marketing Standards, a “guarantee” means a promise (i) to perform in a specific manner or (ii) that a specific outcome will be achieved.
- ▶ **Honor All Promises:** If make a program or performance guarantee, Member must perform according to the promise made.
 - ▶ Audit will review claims and claims evidence from Member Company.

Marketing - Program Performance Claims

- ▶ Program Performance Claims. For purposes of these Marketing Standards, the term “performance claim” means any statement made with respect to an historic program outcome (i.e., an outcome previously secured by the DRSP with respect to either an individual client or a specific cohort of clients). By way of example, “performance claims” include, without limitation, any reference to (i) settlement percentages, (ii) client savings, (iii) program duration and (iv) program completion rates.
- ▶ Audit will review content for claims numbers and claims evidence from Member Company.
 - ▶ If a Performance Claim, source disclosure will be confirmed.
 - ▶ If a Performance Claim, use of experience data will be confirmed.
 - ▶ If a Good Faith Estimate, identification as an estimate and supporting data will be confirmed. New entrant data source and disclaimer about data not being DSRP’s and may not be indicative of actual experience will be confirmed.

Marketing - Intention to Offer and FCRA Compliance

- ▶ Intention to Offer Products. DRSPs shall not, directly or through a third party, market a product or service to a consumer without the bona fide intention of offering, and ability to offer, that specific product or service.
- ▶ Compliance with FCRA. Marketing materials (including but not limited to “mailers”) that target prospective clients by means of “prescreened data” or other information obtained from consumer credit reporting agencies must comply with all relevant provisions of the Fair Credit Reporting Act, including, but not limited to, the “prior authorization” and “permissible purpose” requirements.
- ▶ Audit will review content and validate products and services.
- ▶ Member company responsible for compliance with FCRA requirements.

Marketing - References

- ▶ References to Creditors. If an Advertiser or a DRSP states, directly or by implication, that it is able to settle debts with a specific creditor(s), the DRSP must (i) be able to substantiate such claim and (ii) disclose in a clear and conspicuous manner that it is not affiliated with such creditor(s).
- ▶ References to Government Agencies. DRSPs and Advertisers may not state or imply, either in the text of any marketing material or through the use of logos, seals, or graphics, that the DRSP is associated in any way with a federal, state, local or municipal government agency.
- ▶ Audit will review content and examine evidence if a creditor claim is made.
- ▶ Audit will review content for references to government agencies.

Marketing - False Sense

- ▶ False Sense of Urgency. DRSPs and Advertisers shall not use language that states or implies that, unless the consumer takes some action within a relatively short period of time, the consumer will suffer a negative financial or other consequence.
- ▶ False Sense of Exclusivity. DRSPs and Advertisers shall not make an offer that gives a false sense of exclusivity by using terms such as “prequalified” or “preselected” unless that is a true statement and the DRSP only makes the offer to a select group of potential clients.
- ▶ Audit will review content for sense of urgency.
- ▶ Audit will review content for exclusivity and if claim is made, evidence to support true statement will be examined.

Marketing - Opt-out and Retention

- ▶ Opt-out Requests. DRSPs and Advertisers shall enable a consumer's ability to opt out of receiving additional marketing solicitations and shall honor any such opt-out request. The opt-out process shall adhere to all relevant federal and state opt-out laws and regulations.
- ▶ Retention of Marketing Materials. A DRSP and Advertisers shall retain, for a period of not less than two (2) years (or greater if state or federal law or regulation so require) from first use, copies of all mail pieces, general media advertisements and/or lead generation materials, including URL addresses.
- ▶ Audit will ask for DSRP and their Advertisers' opt-out options for consumers.
- ▶ Audit will review retention of marketing materials. Already a provision of the accreditation process.

Advertising - Truthfulness and Clarity, and Substantiation

- ▶ Truthfulness and Clarity. A DRSP shall only post or employ complete, truthful, and legitimate reviews or ads, and must be able to substantiate the origination of all such reviews, including those comparing its service to that of other DRSPs. All relationships between the DRSP and a Review Site (as defined below) should be disclosed in a clear and conspicuous manner.
- ▶ Substantiation. DRSPs must possess and retain adequate substantiation for any performance claim.
- ▶ Audit will review content and ask for source evidence for reviews and ads.
- ▶ Audit will review content and ask for evidence to substantiate any performance claims.

Advertising - Term “Free” and Common Ownership

- ▶ Use of the Term “Free”. When using the term “free” or “complimentary” or other similar terms, DRSPs shall ensure that such claims are truthful and accurate and ensure that proper disclosures are made in proximity to the term if some form of action is required of the consumer.
- ▶ Common Ownership of DRSP and Review Website. A DRSP that directly, or indirectly through a parent or affiliate, owns, controls or operates a website or other public-facing resource that presents or purports to present rankings or reviews (individually a “Review Site”) of DRSPs shall: (i) adopt procedures to ensure reliable and objective reviews free of the influence of common ownership with or relationship to a DRSP; (ii) at a minimum, disclose clearly and conspicuously the nature of the relationship between the review site and the DRSP; and (iii) prohibit non-voluntary or coerced reviews by staff, misleading reviews, nonobjective reviews, and any reviews not grounded in personal experience.
- ▶ Audit will review content and evidence that product or service is free and disclosure is applied appropriately.
- ▶ Audit will ask about ownership.
 - ▶ If directly or indirectly ..., evidence of procedures for reliable and objective reviews free from influence will be required.
 - ▶ Evidence of clear and conspicuous disclosure of relationship required.
 - ▶ Suggestion: Statement of prohibition of non-voluntary or coerced reviews by staff,

Advertising - Review Website Compensation and Third Party Website Reviews

- ▶ Compensation of Review Websites. To the extent that compensation impacts the ranking of a DRSP on a review site, that fact must be disclosed on the review site.
- ▶ Reviews on Third Party Websites: Transparency. A DRSP shall not assist or engage in the manipulation of reviews posted on third party websites (such as the Better Business Bureau, Google Reviews, etc.), including but not limited to posting fake reviews, reviews that are edited to alter meaning, and/or undisclosed incentivized reviews. If employee reviews are used, they must be based on personal experience and the employer/employee relationship with the DRSP clearly and conspicuously disclosed. Employees cannot be used to post misleading or fake reviews not grounded in personal experience.
- ▶ Reviews on Third Party Websites: Reviews of Other DRSPs. The prohibitions in Section 2.6.1 shall apply to any reviews of other DRSPs, negative or otherwise. Factual comparative advertisements supported by data are permissible.
- ▶ Audit will ask about review compensation.
 - ▶ If applies, will review disclosures.
- ▶ Audit will ask about reviews on third-party websites.
 - ▶ If employee reviews are known, evidence of non-coerced employee reviews statement as defined under Common Ownership of DRSP and Review Website section.
- ▶ Audit will ask if any reviews of DSRPs on third party sites or comparative advertisements. If applies, will review provisions evidence of data and sourcing.

Advertising - Mailing Lists and Lead Generation Materials

- ▶ Mailing Lists and Lead Generation Materials. DRSPs must have reasonable certainty that mailing lists they purchase contain legally obtained consumer information and that all leads have been generated in a lawful manner. Reasonable due diligence includes contractually requiring consumer data to be obtained in a lawful manner from list providers and/or lead generators and having them certify that the consumer data provided was obtained in a lawful manner.
- ▶ Audit will ask for evidence - email, contract, or signed document, etc. - from list provider/lead generator that the consumer data was obtained in a lawful manner.

Discussion

Thank you.

Additional questions?

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