

MRA Seeks Your Feedback in Defining “Research” in the Law

By Howard Fienberg

While MRA fights every day to exempt survey and opinion research from restrictive legislation and regulation, we generally try to steer clear of defining what research actually is, at least in a legal sense. How can we possibly encompass all modes and methods of research in one concise and coherent definition? How can we take account of what we know research to generally be right now, while keeping it flexible enough to encompass what research might be a decade or more down the road?

MRA's Government Affairs Committee has drafted a definition below, and seeks comment from the entire research profession. Please return your comments by Sept. 15 to howard.fienberg@mra-net.org.

Existing Definitions Don't Work

The only real definition we have found in law in the U.S. - albeit limited - is a 1998 telephone monitoring/recording law in Illinois: “A marketing or opinion research interview conducted by a live telephone interviewer engaged by a corporation or other business entity whose principal business is the design, conduct and analysis of polls and surveys measuring opinions, attitudes and responses of respondents toward products and services, or social or political issues, or both.”

Again, this definition is very limited. We need a workable definition for use in future laws and regulations – language that can protect the interests of the entire profession.

We started with definitions provided by MRA in the past, and some definitions from textbooks – these were all either too limited or too expansive and cumbersome. We then turned to ESOMAR's* and AMSRS's** concise definitions of marketing research. These were more useful, but not ready for prime time.

MRA's Proposed Definition of Research

After significant debate and editing, the MRA Government Affairs Committee developed the following definition:

Bona Fide Opinion and Market Research: - the term “bona fide opinion and market research” means the collection and analysis of data regarding opinions, needs, awareness, knowledge, views and behaviors of a population, through the administration of surveys, interviews, focus groups, polls, observation or other research methodologies, in which no sales, promotional or marketing efforts are involved and through which there is no attempt to influence a respondent's attitudes or behavior.

Again, MRA seeks comment from the whole research profession. Did we go too far? Did we miss something? We will then seek to use this definition at any and every opportunity – to ensure that we can properly shield the profession.

Definitions:

* ESOMAR: “Market research, which includes social and opinion research, is the systematic gathering and interpretation of information about individuals or organizations using the statistical and analytical methods and techniques of the applied social sciences to gain insight or support decision making. The identity of respondents will not be revealed to the user of the information without explicit

consent and no sales approach will be made to them as a direct result of their having provided information.”

** AMSRS (Australia): “Market and social research means the systematic investigation of the behaviour, needs, attitudes, opinions, motivations or other characteristics of a whole population or a particular part of a population, in order to provide objective, accurate and timely information to clients (government, commercial and not-for-profit organisations) about issues relevant to their activities, to support their decision-making processes.”

Disclaimer: The information provided in this article is for guidance and informational purposes only. It is not intended to be a substitute for legal advice. MRA advises all parties to consult with private legal counsel regarding the interpretation and application of any laws to your business.



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