



Marketing Research Association

ONE

Voice • Authority • Consistency • Source • Future

- About ▶
- Membership
- Government Affairs ▶
- Respondent Coop ▶
- Information on Demand
- CMOR e-Newsletter
- What Is Research?
- Contact Info ▶

[Logout](#)[Lost Password?](#)

Search CMOR.ORG

Search

Government Affairs

[CMOR :: GA Articles](#) :::

The Top Six Issues Facing the Research Profession in 2009

*By Howard Fienberg, Director of Government Affairs, and LaToya Lang, State Legislative Director
December 2008*

Looking ahead, the MRA Government Affairs team has determined the top six legislative and regulatory issues facing the research profession for 2009. These issues include:

Cell phones: The federal prohibition on calling cell phones with an autodialer (absent express prior consent) is the #1 issue facing the profession. The Government Affairs team will be laying the groundwork with the new Congress and a new leadership at the Federal Communications Commission (FCC) to repeal this legal anachronism within the Telephone Consumer Protection Act (TCPA).

Online Privacy: Driven by consumer fears of online behavioral targeting and targeted advertising, state and federal governments will again look to regulate and restrict the collection and sharing of even non-personally identifiable information on the Internet, such as IP addresses and cookies. This data is essential to the conduct of research online, as well as emerging methods of respondent validation and verification essential to data quality efforts for online panels. In the last year, the Federal Trade Commission proposed "Self-Regulatory Guidelines," and Massachusetts, New York and Connecticut considered legislation.

Research Incentives to Medical Professionals: Concern about pharmaceutical and medical device companies gaining influence with physicians through various kinds of "gifts" has driven interest in Congress and state legislatures in either requiring the reporting of such "gifts," banning all such gifts over a certain dollar amount (usually \$25-50), or banning all gifts outright. Legislators and regulators have so far refused to exempt market research incentives from such regulation. Even simple state requirements for aggregate reporting have driven pharmaceutical companies to avoid conducting research in such states. Bans or public disclosure legislation was considered this past year in Minnesota, Illinois, Massachusetts, New Hampshire, Vermont, California and Ohio. We are working with the Senate towards a federal law exempting research incentives and pre-empting state law. An entire field of market research hangs in the balance.

Automated Calls, IVR and "Robopolling": Consumer concern about annoying or un- or mis-identified automated calls (aka, "robocalls"), especially in a presidential election year, will drive even more efforts to curtail such calls in 2009. Legislation intended to protect consumers from unwanted automated calls (by requiring extra disclosures or adding such calls to a state or national Do Not Call Registry) often inadvertently circumscribes legitimate but automated survey and opinion research calls. Hearings in Congress have targeted this issue, and legislation may progress as part of a reconsideration of federal campaign finance laws. Last year, CMOR beat back potentially negative legislation in Missouri, Washington, Louisiana, Colorado, Pennsylvania and Illinois.

Push Polls: Politicians' umbrage at real and imagined persuasion calls ("push polls") are on the rise. MRA will build on our success in passing a law in Louisiana regulating advocacy calls masquerading as polls while protecting legitimate research (including message testing) by pursuing similar efforts in other states and turning legislators' interest to our advantage.

Data Security & Data Breach Notification: With new regulations in Massachusetts requiring stringent data encryption and written information security plans for any organization in the state or holding data of a state resident, other states will more aggressively follow suit in 2009. Forty-four states* already have requirements for data breach notification. Congress will consider dramatically expanding the HIPAA healthcare privacy rules in order to encourage the adoption of healthcare information technology. As the financial crisis spawns a reconsideration of the Gramm-Leach-Bliley law, access to financial data could be constricted. We will continue to lobby for a workable federal data security law that pre-empts a myriad of conflicting state laws and to protect research access to financial and health data.

2009 will be a challenging year for the research profession. To be a part of the aggressive grassroots defense of your livelihood, volunteer with the [State Capitol Network](#) today.

* Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia all have data breach notification laws.

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. CMOR advises all parties to consult with private legal counsel regarding the interpretation and application of any laws to your business.

“Shielding the Profession”

Copyright 2008 Council for Marketing and Opinion Research
All Rights Reserved
[Privacy Policy](#) | [Legal Notice](#)