

March 3, 2004

Construct Data Verlag GMBH  
Oresstrasse 54  
2331 Vosendorf, Austria

**Re: FAIR Guide**

To Whom It May Concern:

We are writing to you on behalf of our client, the International Association of Amusement Parks and Attractions (“IAAPA”), concerning the marketing communication recently sent from Construct Data to IAAPA members regarding the FAIR Guide. IAAPA is quite upset by Construct Data’s unauthorized solicitation of IAAPA members. Moreover, we believe that the fraudulent nature of the material being sent to IAAPA members is in violation of United States law.

IAAPA has received numerous complaints from members and exhibitors regarding the material sent from your corporation regarding the FAIR Guide. Although the information contained in your marketing communication appears to solicit information for free listing in a guide for fairs and exhibitions, it appears that the document is actually a three-year contract for the purchase of advertising space. In fact, upon signing and returning your correspondence, one IAAPA member was subsequently invoiced over \$900.00 for an advertisement in FAIR Guide he had no intention of purchasing. Accordingly, Construct Data is using fraudulent tactics to deceive IAAPA members and others into entering unwanted contract obligations.

Section 1341 of the United States Code, 18 U.S.C. Section 1341, provides that use of the United States Postal Service for the transmission of fraudulent material is punishable by fine, imprisonment, or both. Specifically, the United States Code provides in relevant part:

*Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, . . . places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, . . . shall be fined under this title or imprisoned not more than five years, or both.*

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IAAPA's name, trademarks, and logo represent IAAPA's valuable intangible property. Accordingly, IAAPA does not permit use of the IAAPA name and/or marks without specific authorization. Federal laws have been enacted to protect the use of certain names, logos, trademarks, or slogans that may cause confusion in the marketplace. Specifically, Section 43(a) of the Lanham Act prohibits the use of any word, term, name, symbol, false or misleading description, or false or misleading representation that is likely to cause confusion, mistake, or deception as to affiliation, connection, or association. It is very clear that the correspondence sent by your company violates the Lanham Act as trademark infringement and misrepresentation of an affiliation with IAAPA, and could give rise to consumer claims against IAAPA for fraud or misrepresentation. The State Attorney General or U.S. Federal Trade Commission may be interested in this matter as evidence of false or misleading representations in advertising.

IAAPA has an established name and reputation that are identified exclusively with IAAPA and its nonprofit mission. As such, IAAPA takes very seriously its obligation to safeguard its members and protect membership information. In this regard, we demand that you cease all unauthorized use of the IAAPA name and marks, and IAAPA member and/or exhibitor information. We further demand that you cease all transmission of misleading marketing solicitations to IAAPA members and exhibitors.

IAAPA is very disturbed by the illegal conduct of Construct Data and has alerted the IAAPA membership about both your company and the FAIR Guide. Moreover, IAAPA is ready to take all appropriate legal actions, including notification to the United States and Austrian governments. Please confirm within the next ten days that Construct Data will cease and desist all such conduct.

Sincerely,

Jerald A. Jacobs

cc: Clark Robinson  
Randy Davis  
Jefferson C. Glassie, Esq.  
Lauren W. Bright, Esq.