

How not to break the law when marketing



Marketing and fundraising is under the spotlight. The ICO has fined several organisations for breaching the Privacy and Electronic Marketing Regulations and Data Protection Act 1998.

Marketing does not only apply to commercial activities or fundraising, it also applies to any message which is targeted to an individual including those to promote your cause. Several charities have also been fined by the ICO for failing to comply with the Data Protection Act 1998.

When do you need consent?

You can send mail to individuals without their consent without breaching the Data Protection Act 1998 as this is deemed to be a limited interference with their right to privacy and in their interests. Any digital form of communication is caught by different legislation – PECRs – and the rules about consent are different.

				
Mail can be sent without consent. NB New Regulation may change that.	Live calls are okay unless recipient registered with TPS. If so, you need consent.	Automated calls require consent.	Emails require consent.	Text/SMS messages require consent.

Soft Opt-in

Consent is not required, if you are sending message to customers or those you have negotiated with as long as:

1. You give them the opportunity to opt-out when you receive their contact information; and
2. You give them the opportunity to opt-out when you send them subsequent messages.

Definition of Consent:

“any freely given, specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed”

This definition will change in May 2018 when the General Data Protection Regulation comes into effect. Consent will require an affirmative action on the part of the data subject and the data controller will have to provide evidence of that consent if requested. It is worth thinking about these changes in advance.

Finally Beware of Buying Data Lists:

You must carry out your own due diligence to satisfy yourself that the data subject has consented to receive marketing message in the relevant format from you.

Contact us today to discuss further

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