

Compliance Newsletter

September 2020

Compliance News for Customer People

This Edition's Headlines

- **EXCLUSIVE!** The ICO's updated Direct Marketing Code of Practice is "significantly delayed" and thrown into the long grass
- Hand sanitisers, lead generators and loft insulators all hit by ICO fines
- Government's future plans for data-driven services may make a post-Brexit EU "adequacy" ruling less likely
- The Competition & Markets Authority gets TUI to promise to complete all its Covid refunds by the end of September
- The ASA gives Black Friday guidance and reminds us of the rules about envelopes (who knew?)

It's September. Time to go back to work (or not) and re-work how to acquire, retain and service customers in ever-changing times. Just to keep you on your toes the regulators have become a bit more active, so read on...

Welcome to our 15th newsletter:



Information Commissioner's Office

No new Direct Marketing Code of Practice until 2021

As we revealed [here](#) and considered in a bit more detail [here](#), the ICO has told the Data & Marketing Association that its updated Direct Marketing Code of Practice which was due to be published later this year has been "significantly delayed" and won't emerge before 2021. This means that over 2 years after the introduction of the GDPR and the 2018 Data Protection Act there is still no contextual advice and guidance available from the regulators for people in the 'customer world'.

5 star reviews on Google, £60k fine from the ICO

The screenshot shows the Amazon.co.uk storefront for 'Digital Growth Experts'. At the top, there is a navigation bar with the Amazon logo, a search bar, and a delivery location of 'Bournemouth BH5 1ND'. Below the navigation bar, there are several menu items: 'Customer Service', 'Prime Video', 'Stephen's Amazon', 'Best Sellers', and 'Today's Deals'. The main heading is 'Digital Growth Experts'. Below the heading, there is a star rating of five stars and a badge indicating '100% positive in the last 12 months (17 ratings)'. A short description below the rating states: 'Digital Growth Experts is committed to providing each customer with the highest standard of customer service.'

Digital Growth Experts (DGE) has been [fined £60,000](#) for sending 16,000 marketing text messages for which they couldn't demonstrate any consent. Most spam text and email marketers which fall foul of the ICO have sent vastly higher volumes of messages, but no doubt the content of these ones - hand sanitiser claimed to be "effective against coronavirus". - was a trigger for enforcement.

Lead generator's use of affiliates costs £100k



The latest company to break the [PECR](#) regulations is lead generator Koypo Laboratories, which has been [fined £100,000](#) after being found responsible for the sending of over 21 million unconsented marketing emails to consumers in 2017-18. The emails were promoting Koypo's 'Simple PPI Claims' brand, but were all sent by Koypo's affiliates over which Koypo did not have control. However the ICO ruled (in echoes of the Decision Technologies / Money Supermarket case we covered in the last newsletter) that the emails were still Koypo's responsibility. Unlike many recipients of ICO fines, Koypo still seems to be trading and to have moved away from the affiliate business model.

Loft insulation firm throws in the towel

[Rain Trading of Lampeter has been fined £80,000](#) for outbound calling numbers which had been registered with the TPS. Rain Trading – which traded as Intelligent Home Energy – sold loft insulation through telemarketing and came to the ICO's attention due to the number of consumer complaints generated. The ICO followed its frequent pattern and lodged a Third Party Information Notice ("3PIN") with Rain Trading's telco provider to identify the company. It transpired that Rain Trading didn't TPS screen any numbers or even operate an internal 'Do Not call' list and voluntarily ceased calling not long after the ICO's investigations got underway. So it seems unlikely that the fine will ever be paid.

Yet again, these enforcement actions are based on companies breaking the PECR rules (see our [infographic about GDPR & PECR](#)). Digital Growth Experts sounds like a very small firm that's grown up through low-volume eBay trading, but the other two organisations really should have understood the rules.

If you need some help with this stuff, just get in touch
hello@channeldoctors.co.uk

The ICO has carried out some research into consumer trust and confidence. Perhaps unsurprisingly, it has identified that the key issues for people with low levels of confidence in how their personal data is treated are around their data being hacked, breached or shared without their approval.

Unwanted marketing comes a long way down the list of concerns on to us all:

Q1a. What is the main reason for the level of trust and confidence you have in companies and organisations storing and using your personal information?
(Most cited reasons amongst those with a low level of trust and confidence)

	2019	2020
They sell your personal information (to 3rd parties)	17%	18%
Data hacking	16%	16%
Data leaks/breaches	15%	13%
They are profit-driven (they use data for their own purposes/interests)	9%	13%
Concerns about data/information being misused (not sure what they do with my data)	11%	12%
Lack of trust/Not trustworthy/I don't trust anyone	7%	11%
Concerns about security (Lack of safety/ Security issues/ Poor security systems/It's not (completely) secure)	11%	9%
They share your personal information with 3rd parties (without my consent)	11%	7%
Spam (junk/ unsolicited emails)	4%	5%
Marketing/Advertising purpose (used in advertising, for targeted advertising)	3%	5%
Other	5%	8%
Don't know/Not sure	1%	1%

All Adults with a low level of trust and confidence in companies and organisations storing and using personal information: 2019 (851) / 2020 (600)

On Friday, the Guardian reported that the government's plans to change data protection rules create a further impediment to the chances of the UK's data privacy being judged 'adequate' by the EU before the end of the Brexit transition period. If accurate, this should be a major concern.

But as is usual with most things Brexit-related, we'll just have to wait and see...

The screenshot shows the top of a Guardian news article. At the top left, it says 'Support The Guardian' with options to 'Contribute' and 'Subscribe'. Below that is a navigation bar with 'News', 'Opinion', 'Sport', 'Culture', 'Lifestyle', and 'More'. The article title is 'Dominic Cummings' data law shake-up a danger to trade, says EU'. Below the title is a sub-headline: 'Exclusive: proposed rewriting of data protection rules said to put vital cooperation in doubt'. There is a photo of Daniel Botley, with the caption 'Daniel Botley in Brussels' and a date '26 Jul 2020, 11:02:55T'. There are social media share icons and a count of '1,886'.

Vulnerable customer guidance consultation close to closing



Home / Publications / GC20/3: Guidance for firms on the fair treatment of vulnerable customers

GC20/3: Guidance for firms on the fair treatment of vulnerable customers

Consultation closed: GC19/3	Open consultation: GC20/3	Consultation closed	Finalised Guidance
04/10/2019	29/09/2020	30/09/2018	Winter 2020

Guidance consultations | First published: 29/09/2020 | Last updated: 14/09/2020

The FCA's [consultation on proposed updates to its guidance](#) for the fair treatment of vulnerable customers finishes on 30th September. As previously highlighted, this is not just significant for financial services firms, but for all people managing their businesses' interactions with customers. The concept of customer vulnerability has become a mainstream issue over the past few years. As such, the FCA's guidance is likely to be used by firms in other sectors to guide their policies and procedures.



TUI told to hurry up its Covid refunds

Unsurprisingly, as the biggest package holiday provider, TUI has been [under investigation](#) by the CMA after complaints about holiday firms' slow refunds for Covid-cancelled bookings. TUI has committed to process all the refunds by the end of the month.

In parallel the CMA wrote to 100 other firms to remind them of their obligations. Presumably the others had already gone bust.

BUPA gets the nod to be friendly

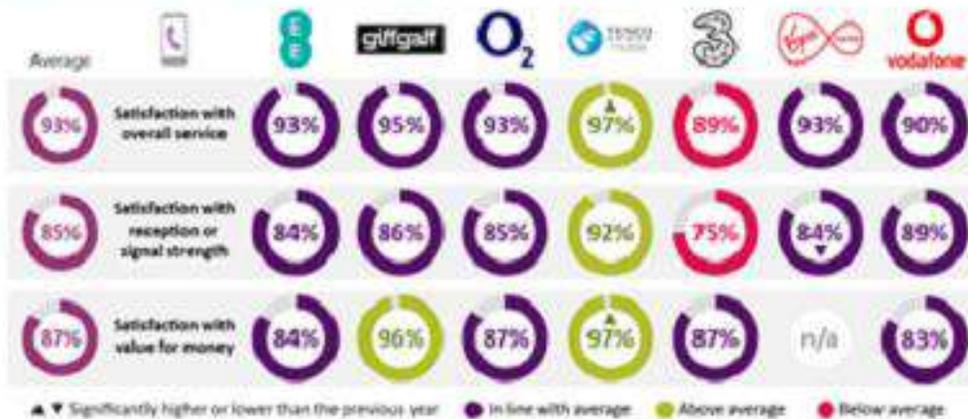
After a quick, month-long investigation the CMA has [cleared BUPA's planned takeover of CS Insurance](#), a friendly society which provides healthcare coverage to members of the civil service. CS has just 18,000 members and is decline, so the CMA's decision was pragmatic.



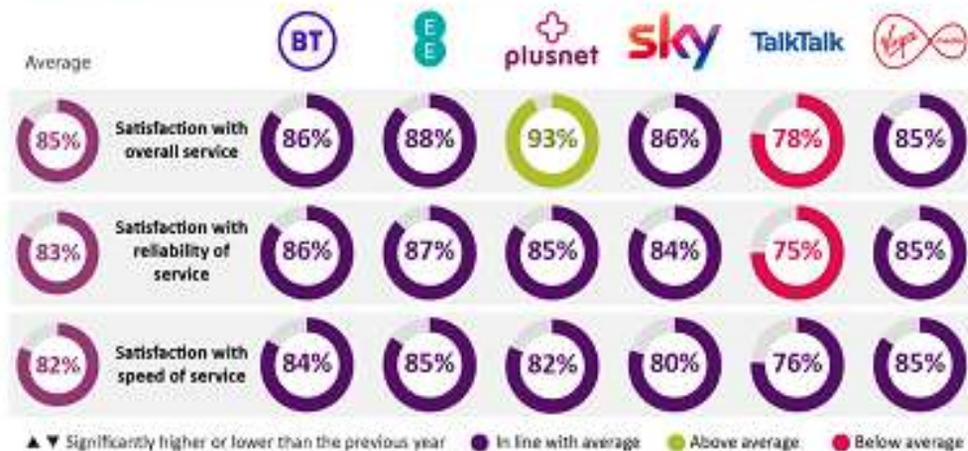
Boringly, Ofcom's latest consumer research seems to show that nearly everyone's quite happy with their broadband, mobile and landline providers. However, if you have some time on your hands and [delve more deeply](#) into the findings some interesting detail emerges, especially around contact centre wait times...

Disappointingly, the data is now very old – up to January this year – so doesn't reflect Covid experiences.

Which mobile companies have the most satisfied customers?



Which broadband companies have the most satisfied customers?



The ASA (Advertising Standards Authority) has issued some [timely guidance](#) to keep marketers on the straight and narrow with their Black Friday comms and promotions.



At a time when direct mail is claimed to be having a bit of a renaissance it's useful to be reminded (or told - I didn't know this!) that the envelopes used should probably best be labelled "Contains advertising material" or "Marketing Communication" - and even then it needs to be done prominently.

A lot of younger marketers who have grown up in a digital-dominated world and struggle to understand the compliance rules, so for many [this sort of guidance](#) on the old-fashioned channels should be required reading.



ofgem



After what seemed to have been a Covid-hiatus, another small energy provider has failed. Go Effortless of Staffordshire – which only had less than 3,000 domestic customers – has folded and its customers have been [transferred to Octopus Energy](#).

Bulb has had to [pay out £1.7m in compensation and goodwill payments to consumers](#) after a series of historic compliance failings, including switching and billing errors.



PSA

Phone-paid Services Authority

The PSA has barred three people from operating premium rate phone services for 5 years each. Leon Wander, Ofir Sarusy and Lara Simon were directors of firms which the PSA has previously fined for breaking the rules, IT Zone, Tobaji and Heart Communications, respectively.



The Fundraising Regulator has [highlighted](#) that charities fundraising more than £1m annually often still aren't meeting the reporting requirements of the Charities (Protection and Social Investment) Act 2016.

- 81% of reports included a statement about a charity's fundraising approach.
- 67% of reports included a statement on the regulatory schemes they adhered to.
- 59% of reports included a statement on the number of complaints about fundraising.
- 41% of reports included a statement on third-party monitoring.
- 40% of reports included a statement on protecting vulnerable people.

Before you go

Are we on the right lines? Or would a different approach make sense in these changeable times? Who and what else would you like to see covered in future monthly newsletters about the world of regulation and compliance as it affects customer engagement?

Let us know at hello@channeldoctors.co.uk

The Small Print

This content is accurate as of 29th September 2020.

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