

Compliance Newsletter

February 2021

Compliance News for Customer People

The Great Wilmslow Chocolate Heist & other stories

Short of time? Here's this month's headlines:

- **Adequacy is good news for UK business, bad news for lawyers**
- **What's fishy, sticky, fights Covid and just got fined?**
- **Chocolate not cookies for the ICO after £6k blow out**
- **ePrivacy is back (but should we care?)**
- **Nuisance calls' big Covid drop is now officially over**
- **CMA steps in over holiday firms' Covid cancellation refund delays**
- **Ryanair's "jab & go" campaign gives ASA the needle**

A short month, but one full of compliance and regulation news. The EU has granted the UK data protection adequacy, the ICO's fine-fest continues and Ryanair make people cross (so, some news news and some old news).

Welcome to our 20th newsletter:



Information Commissioner's Office



Adequacy? That'll Do Nicely!

It's now almost certain that the EU will deem the UK's data protection regime 'adequate' and thus allow data transfers to continue between the UK and EU as they do at present. Listen carefully and you can hear the quiet sobbing of contract lawyers missing out [on an estimated £2bn of work](#).
Tragic.

The Great Wilmslow Chocolate Mystery

An intriguing [story in Business Insider](#) by Chris Stokel-Walker revealed that someone at the ICO spent over £6,000 at [Hotel Chocolat](#) on an ICO corporate credit card, just before Christmas.

An investigation will reveal if this was spent legitimately or was a fraudulent transaction by a rogue employee who must still have the mouth ulcers.

My theory is that the ICO has launched a chocolate-based incentive scheme to boost productivity, as there has been a surge in PECR fines and enforcements in 2021:

Seafish Importers Limited doesn't import fish. Which is a little strange for starters. What it does do is sell stickers online ("...the UK's No.1 sticker company"!).



Until last spring it didn't sell face masks (or even face mask stickers) either, but it spotted a business opportunity to do so with the advent of Covid. Unfortunately, it used thousands of unconsented emails to market the masks, in contravention of the PECR rules and has been [fined a rather modest £10k by the ICO](#).



justhype

Youth fashion site, [Just Hype](#) (not heard of it, grandad?) also made a ill-advised move into the selling of (fashionable) face masks. Hundreds of thousands of promotional SMS messages were sent by Just Hype, both to previous customers whose checkout journey wouldn't have led them to understand they would receive marketing texts and 3rd parties who had no relationship with or awareness of Just Hype at all (which was blamed - like so much in life - on an unnamed "IT Consultant"). The [ICO has fined Just Hype £60,000](#) and acknowledged various changes it has made to its internal processes and customer communications.



In 2018 Bournemouth-based **House Guard** made nearly 400,000 telemarketing calls about its 'masonry treatment' services to consumers who had registered their numbers with the TPS. The ICO was unimpressed by House Guard's explanations and fined it £150,000. The firm [told the local paper](#) that the fine was unjust and that it would lodge and appeal, but in the meantime the website is down and the company seems to have ceased trading.

Lead generation firm **Call Centre Ops** has been [fined £120,000](#) for calls made under a variety of brand names and about various propositions to numbers registered with the TPS. The ICO ruled that the marketing consents claimed by the 3rd party suppliers Call Centre Ops relied on for prospect data were vague at best and that in any event Call Centre Ops carried out little or no due diligence.



Finally, Valca Vehicle and Life Cover Agency (which traded most recently as [DebtQuity](#)), another lead gen firm, has been [fined £80,000](#) for repeated PECR infringements. DebtQuity sent thousands of SMS messages without valid consent, compounding its transgression by not including an opt-out route on many of them.

Nuisance Calls Drop, then Rise Again

ICO data shows a reduction of 20% to 100,000 in complaints in 2020, but after an initial Covid drop, they seem to be back to typical levels.

More concerning a [National Trading Standards scheme](#) which involved equipping vulnerable householders with [Truecall](#) call blocking devices has shown a 3-fold increase in scam calls to the over-70s. It's hard to tell if this is reflective of an overall massive increase in scam and fraudulent calling or just that a cohort of vulnerable consumers' numbers being repeatedly shared between scammers. Good old targeted direct marketing, eh?

ePrivacy - It's Here (Almost), At Last!

Remember the ePrivacy Regulation? Possibly not.

The EU's update to the electronic marketing rules, which in the UK are embodied in the [PECR rules](#) (and which form the basis for the [vast majority of fines and rulings against rogue marketers](#)), is now 3 years overdue. However, a text has been agreed and looks like it will be adopted by the EU Parliament over the next few months, prior to a 2 year implementation period. As the [DMA highlights](#), whether the UK will adopt it in turn remains to be seen.

If you're a marketer worrying about the future of your communications channels and routes to potential customers there are things to focus on before the ePrivacy Regulation....

Such as

ICO Re-Starts its Adtech Investigation

Someone once described the adtech and RTB (real time bidding) world as so confusing that even most people who are employed in it don't really understand how it works! So, you can see why the ICO might prefer to stick to investigating feckless call centre firms that have never heard of the [TPS](#).

However, the real action is in the digital world and some of the brokers of personal data may have started to update their CVs after the ICO revealed that it was once again [investigating them](#).

"Data broking also plays a large part in RTB and following our [data broking investigation into offline direct marketing services and enforcement action for Experian in October 2020](#), we will be reviewing the role of data brokers in this adtech eco-system.



O2 has been [fined £10m by Ofcom](#) for inadvertent – but sloppy – billing errors between 2011 and 2019 which meant that millions of customers were overcharged at the point they ended their contracts.



The CMA is to [investigate](#) whether Teletext Holidays has broken consumer law over its approach to Covid-related holiday cancellation refunds.

By implication, Teletext may be the worse of a bad bunch after the CMA has secured commitments to pay consumer refunds from rivals including [Love Holidays](#), [Lastminute.com](#), [Virgin Holidays](#), [TUI UK](#), [Sykes Cottages](#) and [Vacation Rentals](#).



Early in the season Ryanair has claimed the 2021 "double the publicity by getting an ad banned" trophy from [Brewdog](#), after the ASA ordered Ryanair not to re-broadcast two "Jab & Go" TV adverts, which had generated the [3rd highest number of complaints ever](#).

PSA

Phone-paid Services Authority

The company that ran Voucher Bonanza - a £4.50/month shopping voucher phone subscription service - has been fined £750,000 by the PSA after it received hundreds of complaints from consumers who said they hadn't agreed to the service.

The parent company is called Entertainmob Kommunikation. It's German firm, but I'm not convinced that's a good enough excuse for having a name like that.



The PSA has barred a director of a scam website 'Passport Advice & Services' - which pointed consumers to the Passport Office via a call redirection service billed at £1.50 a minute - from the premium number industry for 5 years.



A quiet month in the 'customer' space for **Ofwat**, **Ofgem** and the **Fundraising Regulator**.

We Need Your Feedback

Are we on the right lines? Or does the age of the 'new abnormal' mean that we should shake this up a bit? 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?

The Small Print

This content is accurate as of 25th February 2021. Channel Doctors is a trading name of Murphy Sullivan Associates Limited, a company registered in England and Wales with Registration Number 4830889.

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That many customers inadvertently used the service and found themselves hit by mobile phone bills in excess of £100 as a result - and that the PSA considered Salvatet's presentation of its charges unclear and obscure - is sadly par for the course. However, the PSA's ruling highlighted a couple of novel aspects:

- A third of the number re-directions didn't even work
- All calls were automatically cut off after 500 seconds, which was explained as being due to the EU's new PSD2 payment rules. 500 seconds equated to £40, the PSD2's approximate limit for some sorts of transactions. Of course, most consumers immediately re-dialled, thus guaranteeing Salvatet even more revenue



All's quiet with the Fundraising Regulator, this month.

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 26th October 2020.

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