

Compliance Newsletter

January 2021

Compliance News for Customer People

The one last resolution you can stick to

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

- Another flurry of ICO fines target TPS-ignoring telemarketers
- Dating app Grindr gets a Nordic GDPR slapping
- Transferring personal data to the US? Did you know your legal basis broken?
- Google takes the biscuit - CMA investigates it's planned 3rd party cookie ban
- Debt relief scammers' ads banned by the ASA
- Two more energy challengers go bust as Ofgem steps in

It's a new year, but the same old lockdown, tedium and Covid fatigue. So what are the compliance challenges for 2021 and what are the regulators up to?

Read on to find out...

Welcome to our 19th newsletter:



Information Commissioner's Office

4 Sets of PECR Fines for Telemarketers Ignoring the TPS

After last month's flurry of 3 fines for companies breaking data protection laws through rogue direct marketing, in January the ICO's gone one better!



[Rancom Security](#) of Sutton Coldfield has been fined [£110,000](#) for breaching the PECR regulations by cold telemarketing to over half a million numbers registered with the Telephone Preference Service (TPS).`

Rancom came to the ICO's attention after the ICO and TPS received consumer complaints about marketing calls made to TPS registered numbers through 2017 and 2018. Under investigation Rancom didn't help their case by

- showing unsigned and undated contracts with 3rd party data suppliers
- claiming to have TPS screened some records without providing any evidence of having done so
- saying the calls to TPS registered numbers may have been made by other companies in the building that also used Rancom's telephony system
- and even that they weren't telemarketing calls they were research, from when Rancom had considered changing its business model



[Solar Style Solutions](#) came to the ICO's attention when an outbound caller identification line used by it came near the top of the list of complaint calls over two months in 2018 and 2019.

The ICO served a Third Party Information Notice ("3PIN") on the associated telephony provider to identify who was responsible for the calls. This established that over 100,000 calls were made to TPS registered numbers just in the first 5 months of 2019.

Although soon after the ICO started to investigate Solar it purchased a TPS license, it also conceded that it had acted "naively" and that the data it had previously procured "was purchased in good faith" - rather than through the use of robust contracts. The ICO has [fined Solar Style Solutions £100,000](#) for its infringements of the PECR rules.

Chameleon Marketing of Leeds sold boiler cover through outbound telemarketing, trading under a variety of names such as the Home Heating Centre and www.payasyousaveboilers.co.uk.

The ICO's investigation established that in less than 4 months in 2019 over 600,000 calls were connected to TPS registered numbers in contravention of the PECR rules. Chameleon explained that

- *"there was unfortunately a short period of around 5 weeks around 9-5-19 and 10-6-19 when [the director] left the day to day running of the telesales part of the business to someone [they] trusted. They, without [their] knowledge bought in or garnered some data in that period that was not GDPR or TPS screened."*
- **(I know, it would be have been bad enough if they used the boss' reserved car parking space and borrowed the big spinny chair)**
- However, the ICO decided that the calling of TPS registered numbers carried on outside of this period too - although it regarded the dismissal of this 'rogue' employee as a positive, mitigating factor for Chameleon. That said, Chameleon has still been [fined £100,000](#).

[Repair & Assure](#) offer domestic appliance repair cover. In the first 6 months of 2019 R&A made over a million illegal marketing calls to numbers registered with the TPS.

Perhaps unsurprisingly, given the scale of its telemarketing efforts, R&A sourced calling data from 12 separate 3rd party data suppliers. It was able to provide information about the source of these leads for 4 of the supplying firms and all relied on telephone surveys to acquire data which the ICO felt provided inadequate evidence of consent to receive calls from Repair & Assure. No contracts with data suppliers pre-dated the start of the ICO's investigations, so the ICO reasonably concluded that there were none.

Unsurprisingly, the [ICO has imposed a significant fine](#) on Repair & Assure (albeit well below the £500,000 ceiling in place for PECR infringements) of £180,000 – as well as ordering it to cease outbound calling of TPS-registered numbers.

Not Just One No Deal, It's Two No Deals

As we all now know, there was no data deal with the EU and whether there will (through the UK's personal data protection regime being deemed "adequate") or there won't isn't likely to be decided until the summer.

If you're [not feeling lucky](#) then, as we have previously discussed, working with your lawyers to use Standard Contractual Clauses (SCCs) to future proof UK/EU data transfers is probably the way to go. However, although the [EU has updated SCCs](#), they have been issued in draft, but not yet finalised.

So, there's another good reason to just ignore the whole problem and hope it will go away. Isn't it?



And in the meantime, even though the Privacy Shield arrangement that provided a mechanism for personal data to compliantly flow between the US and the EU collapsed last summer after being [ruled invalid](#) by the European Court of Justice, a lot of organisations still haven't come up with an alternative. And if that, as is likely, will be reliant on using SCCs and your friendly local commercial law firm you're back in a world of cost and uncertainty. Again.

Scandi DP Regulator Throws the Book at Hook-Up Site

The Norwegian data protection regulator has [announced it intends to fine](#) gay dating site [Grindr](#)* 100 million Norwegian Kroner (€9.6m) for a series of GDPR personal data privacy infringements. Most notably they include

- not allowing subscribers truly free consent to having their (sensitive, 'special category' data) shared by Grindr having an 'all or nothing' privacy policy that has to be accepted to use the app
- sharing that sensitive personal data with hundreds of other firms without real control of their activities.

The fine amounts to about a third of Grindr's global annual profit.

** You're working from home, so you might want to take a chance on clicking the hyperlink. Or you might not. You decide*





The CMA is to [investigate](#) Google's looming ban on 3rd party cookies. By implication, the CMA shares digital advertising players' concerns that this move is less about Google respecting consumers' privacy than about creating a monopoly situation in which advertisers become *even more* reliant on Google for consumer insights.



In a timely move, the ASA has [banned](#) two companies - National Direct Service and Fidelitas - which effectively acted as lead generators for commercial debt relief advisors from continuing to use misleading advertising.

Both implied that they were officially sanctioned (one even attempting to pass itself off as [Step Change](#) the debt relief charity, by using the now disabled website www.stepdebtsupport.org.uk), suggested that debt relief was very easy to achieve and failed to make clear that they merely acted as introducers.

Rising debt amongst the most vulnerable households is a clear product of the pandemic and it's good to see the ASA attempting to combat those looking to exploit some of the most needy people in society.

The logo for Ofgem, consisting of the word "ofgem" in a bold, orange, lowercase sans-serif font.The logo for Simplicity, featuring a grey circle with a white lowercase "s" inside, followed by the word "simplicity" in a grey, lowercase sans-serif font.

Just gas, electricity and no hassle

The toll of failed challenger energy suppliers continued with Ofgem's [announcement](#) at the end of January that both Simplicity and Green Network Energy had ceased trading.

The companies' 400,000 domestic customers will be transferred to a successor supplier shortly.

The logo for the Phone-paid Services Authority (PSA), consisting of the letters "PSA" in a large, bold, dark blue sans-serif font.

Phone-paid Services Authority

The logo for DiscountMeDirect, featuring the word "discount" in white lowercase letters on a yellow background, followed by "MeDirect" in black uppercase letters on a white background.

The premium phone services regulator, the PSA, has fined TCS – which operated the offers alerts-by-text service "DiscountMeDirect" - £885,000 for various failing to act fairly and transparently when signing up and billing customers.

The logo for Ofcom, featuring the word "Ofcom" in a red, lowercase sans-serif font with a multi-colored horizontal bar below it.The logo for Ofwat, featuring the letters "ofwat" in a blue, lowercase sans-serif font with a white circle around the "w".The logo for the Fundraising Regulator, featuring a purple circle with the letters "FR" inside, followed by the words "FUNDRAISING" and "REGULATOR" in a purple, uppercase sans-serif font.

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

The Small Print

This content is accurate as of 27th January 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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The logo for Channel Doctors, featuring the words "CHANNEL DOCTORS" in a bold, uppercase sans-serif font. "CHANNEL" is in white on a black background, and "DOCTORS" is in white on a red background.

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 28th January 2021.

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