<https://www.gov.uk/marketing-advertising-law/direct-marketing>

# Marketing and advertising: the law

# Direct marketing

You must check if customers want to be contacted by fax, phone, post or email, and give them the chance to object. You must be able to prove you’ve done this.

When you collect customer details, you must get their permission if you want to send them other offers or promotions.

You must also ask for their permission if you want to share their information with another organisation.

## **Letting customers opt out**

Customers have the right to stop their information being used for direct marketing.

You must make it easy to opt out - for example by sending a ‘STOP’ text to a short number, or using an ‘unsubscribe’ link.

## **Direct mail**

Check that your mailing lists do not include anyone who’s asked not to receive direct mailing, using the [Mail Preference Service](https://corporate.mpsonline.org.uk/index.php/mps/faq).

## **Email marketing and text messages**

You’re only allowed to send marketing emails to individual customers if they’ve given you permission.

**Emails or text messages must clearly indicate:**

* who you are
* that you’re selling something
* what the promotions are, and any conditions

Check that you are not sending emails to anyone who’s asked not to receive them, using the [Email Preference Service](http://www.ims-dm.com/cgi/offemaillist.php).

If you buy or rent a mailing list, ask the supplier if you have the right to use it for email marketing.

Every marketing email you send must give the person the ability to opt out of (or ‘unsubscribe from’) further emails.

You must tell customers if you add them to a list of people who do not want to be emailed.

Examples

**BT fined £77,000 for sending emails promoting charity initiatives**

20 June 2018 by [Liam Kay](https://www.thirdsector.co.uk/author/4626/Liam-Kay)

The company sent five million emails to customers promoting three charity initiatives without seeking their consent, according to the Information Commissioner's Office



BT has been fined £77,000 by the [Information Commissioner’s Office](http://ico.org.uk/) after the company sent almost five million nuisance emails to customers promoting three charity initiatives.

The emails were sent between December 2015 and November 2016 to promote [Giving Tuesday](http://www.givingtuesday.org.uk/), [Stand up to Cancer](http://www.standuptocancer.org.uk/) and BT’s own [MyDonate](http://www.btplc.com/mydonate/%22%20%5Ct%20%22_blank) giving platform.

BT is one of the partners for Giving Tuesday, which is a campaign to donate to charity soon after the so-called "black Friday" and "cyber Monday" shopping days, while Stand Up To Cancer is a collaboration between [Cancer Research UK](https://www.thirdsector.co.uk/bt-fined-77000-sending-emails-promoting-charity-initiatives/fundraising/article/Cancer%20Research%20UK) and Channel 4.

In a ruling published today, the ICO said that BT did not have customers’ consent to send the direct marketing emails, and fined the company.

BT had accepted that its emails promoting Stand Up To Cancer and Giving Tuesday were unlawful, the ICO said, but had disputed that the MyDonate emails were direct marketing.

But the ICO found that the emails were "not simply service messages" and had been sent to customers who had not given the necessary consent.

This meant the emails breached regulation 22 of the Privacy and Electronic Communications Regulations, according to the ICO.

Despite accepting that BT did not deliberately break the rules on consent, the ICO said "it should have known the risks and it failed to take reasonable steps to prevent them".

Steve Eckersley, head of enforcement at the ICO, said: "Organisations have a responsibility to ensure they are acting within the law. Where they do not, the ICO can and will take action.

"This particular investigation was prompted by a concerned member of the public. We investigated the matter and uncovered the full extent of this activity, which shows how important it is for people to report nuisance emails."

A spokesman for BT said it was disappointed at receiving a monetary penalty.

The spokesman said: "This relates to emails concerning charitable fundraising that were sent to some of our customers in 2015/16. There was no financial benefit to BT and minimal impact on customers – in fact, almost five million emails elicited just one complaint.

"We are pleased that the ICO has acknowledged that this was not a deliberate contravention of regulations. In turn, we have accepted the facts set out by the ICO and have apologised. We immediately tightened our procedures when the complaint was originally raised in February 2017, as part of our robust and ongoing commitment to the highest standards of data management."

BT announced last month that it had updated its terms and conditions for MyDonate and had introduced a new privacy policy to coincide with the introduction of the General Data Protection Regulation.

# ICO fines Morrisons for emailing customers who didn't want to be emailed

## **You’ve opted out of marketing emails. Can we just send you a marketing email to check?**

By [Rebecca Hill](https://www.theregister.co.uk/Author/Rebecca-Hill) 16 Jun 2017 at 11:33

(<https://www.theregister.co.uk/2017/06/16/ico_fine_morrisons_unsolicited_emails/>)

Supermarket chain Morrisons has been fined £10,500 by the UK's data protection watchdog for sending marketing emails to people who had unsubscribed from marketing bumf.

The Information Commissioner's Office (ICO) said the company had broken the law when it deliberately sent more than 200,000 emails to people who had previously opted out of receiving such emails.

The emails, sent between October 24 and November 25 2016, were titled "Your account details" and went out to Morrisons More loyalty cardholders that had opted out of, er, Morrisons More card marketing.

According to the ICO, the message told cardholders that they had opted out of such emails – then asked them to change their preferences to start receiving coupons and points.

It also helpfully "provided directions on the steps to follow to opt back in to receive marketing".

The email was sent out to 236,651 people, but only 130,671 emails were successfully received.

In an unsurprising twist, one of the recipients was irritated that they received the email despite having unsubscribed from Morrisons' direct marketing – and shopped the chain to the ICO.

The ICO's investigation found that the email in question "would be in itself sent for the purposes of direct marketing, and so is subject to the same rules as other marketing emails".

In deliberately sending the emails, the ICO said, Morrisons had deliberately contravened the Privacy and Electronic Communications Regulations, and issued it with the fine, to be paid by July 13.

Deputy commissioner Simon Entwisle said: "It is vital that the public can trust companies to respect their wishes when it comes to how their personal information is used for marketing.

"These customers had explicitly told Morrisons they didn't want marketing emails about their More card. Morrisons ignored their decision and for that we've taken action."

The watchdog also pointed out that the impending General Data Protection Regulation – which comes into force next May – "sets a high bar for the consent organisations must obtain from customers before using their personal data for marketing".

A Morrisons spokesperson told *The Register*: "We sent out an information message to a small percentage of our customers that aimed to provide some helpful information about our service. We did this with the best of intentions and we're disappointed that this was deemed to be 'marketing material'."

**Earlier this year,**[**the ICO fined Flybe and Honda**](https://www.theregister.co.uk/2017/03/28/ico_fines_flybe_honda/)**£80,000 and £13,000 respectively for emailing customers who had said they didn't want to receive marketing emails to ask whether they would consent to future marketing.** ®

**Moneysupermarket.com fined £80,000 for sending 7 million illegal emails**

All of the recipients of the emails had previously opted out of receiving direct marketing from the company

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(<https://www.independent.co.uk/news/business/news/moneysupermarket-illegal-emails-send-80000-fine-information-commissioners-office-a7852306.html>)

Price comparison website [Moneysupermarket.com](https://www.independent.co.uk/topic/moneysupermarket) has been slapped with a £80,000 fine for sending millions of emails to people who had made it clear that they do not wish to be contacted in this way.

The [Information Commissioner’s Office (ICO)](https://ico.org.uk/) said on Friday that the company had sent over 7 million emails over a period of 10 days last year, updating customers on its terms and conditions. All of the people who got the emails had previously opted out of receiving direct [marketing](https://www.independent.co.uk/topic/marketing).

According to the ICO, the emails contained a section entitled “Preference Centre Update”, which read: “We hold an e-mail address for you which means we could be sending you personalised news, products and promotions. You’ve told us in the past you prefer not to receive these. If you’d like to reconsider, simply click the following link to start receiving our e-mails.”

By asking people to consent to receiving marketing messages in future, when they have already opted out of this, the company is breaking the law.

“When people opt out of direct marketing, organisations must stop sending it, no questions asked, until such time as the consumer gives their consent,” said Steve Eckersley, the ICO’s head of enforcement. “They don’t get a chance to persuade people to change their minds.”

He said that by sending emails to consumers “under the guise of ‘customer service, checking or seeking their consent,” Moneysupermarket.com is circumventing the rules, which is “unacceptable”.

“We will continue to take action against companies that choose to ignore the rules,” he added.

The messages were sent between 30 November and 10 December last year.

A spokesperson for MoneySupermarket said: “At MoneySupermarket, we take the protection of our customers’ data and privacy very seriously. We apologise unreservedly to the customers affected by this isolated incident and we have put measures in place to ensure it doesn’t happen again.”