

Companies receiving unwanted marketing

Privacy and Electronic Communications Regulations

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Introduction

The Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR) provide rules about sending marketing and advertising by electronic means such as by telephone, fax, email, text, picture or video message, or by using an automated calling system. PECR also include other rules relating to cookies, telephone directories, traffic data, location data, and security breaches.

An overview of the main provisions of PECR can be found in [The Guide to the Privacy and Electronic Communications Regulations](#).

This is part of a series of guidance, which goes into more detail than the Guide, to help organisations to fully understand their obligations and to promote good practice.

This guidance explains to companies and other corporate bodies what their rights are under PECR, and how to cut down on unwanted direct marketing calls and faxes.

Overview

- This guidance applies to corporate bodies, including companies, Scottish partnerships, limited liability partnerships, and government bodies. Other partnerships or sole traders should refer to our guidance for the public.
- Corporate bodies can cut down on unwanted marketing calls by registering with the Corporate Telephone Preference Service (CTPS), and can cut down on unwanted marketing faxes by registering with the Fax Preference Service (FPS).
- Corporate bodies also have the right to opt out of marketing calls and faxes – in other words, they can tell an organisation directly to stop calling or faxing.
- However, there is no similar preference service or right to opt out of marketing emails or texts.

How PECR protect companies

Although the Data Protection Act 1998 (DPA) only protects individuals, PECR apply to any direct marketing by phone, fax, email or other electronic means. This means that PECR protect companies and other corporate bodies from unwanted marketing, as well as protecting individuals.

However, there are different rules for marketing to corporate bodies and marketing to individuals. PECR place fewer limits on marketing to corporate bodies – but there are still limits. If you are a corporate body, there are steps you can take to cut down on unwanted marketing calls and faxes to your organisation.

Corporate subscribers

This guidance applies to 'corporate subscribers'. A 'subscriber' is someone who pays for the use of a telephone line, internet connection or other public electronic communications service. A corporate subscriber is therefore any corporate body (an entity with a separate legal status) with its own phone number or internet connection. This includes companies, Scottish partnerships, limited liability partnerships (LLPs), corporations sole, and some government bodies. Any reference in this guidance to 'companies' also applies to other corporate bodies.

Other partnerships and sole traders are treated the same as individual consumers, so slightly different rules apply. More information on what they can do about unwanted marketing is available on the ['For the public'](#) pages of our website.

Marketing calls

Organisations can make unsolicited live marketing calls to corporate subscribers, subject to two safeguards.

Firstly, there is a right to opt out – in other words, your company can tell a particular organisation to stop calling your number, and they must do so.

Secondly, your company can register your number with the Corporate Telephone Preference Service (CTPS). In effect, this acts as a general opt-out of receiving any marketing calls, and should stop most unwanted marketing calls. PECR say that organisations should not call any numbers listed on the CTPS unless you have specifically told that organisation that you do not object to its calls.

The rules on automated calls (ie calls made by an automated dialling system which play a recorded message) are stricter. Organisations can only make automated marketing calls to you if you have specifically consented to this.

Marketing faxes

The rules on marketing by fax are similar. Organisations can send unsolicited marketing faxes to corporate subscribers, but you have the right to opt out directly (ie tell an organisation to stop faxing you), or you can register your fax number with the Fax Preference Service (FPS) to opt out of unsolicited faxes from all organisations.

Marketing emails and texts

The rules on marketing by email or text are different. The only obligation on the organisation sending the email or text is that they must not conceal their identity, and must provide contact details.

There is no right to opt out, or to register with a preference service. However, it is still worth asking an organisation to stop sending you marketing emails or texts. Most organisations will not want to waste resources or risk their reputation by sending unwanted messages.

Individual employees with personally identifiable work email addresses (eg firstname.lastname@org.co.uk) can however make a written request to stop receiving marketing emails under s11 of the DPA. Organisations must then stop using that email address for marketing purposes within a reasonable period.

Registering with the CTPS or FPS

How to register

To register your number with the CTPS or FPS, you need to contact the Telephone Preference Service (TPS):

Telephone Preference Service Ltd
DMA House
70 Margaret Street
London W1W 8SS

TPS registration line: 0845 070 0707
Website: www.tpsonline.org.uk

You must have proper authorisation to register on behalf of your company.

Registration is free. It will take 28 days for your CTPS or FPS registration to become effective, and you will need to renew your registration annually.

Effect of registration

Registering with the CTPS prevents unsolicited marketing calls. It will not prevent organisations from calling your company if you have asked them to do so, as these calls would be solicited. They can also still call you if you have specifically opted in to receive marketing calls from them. In other words, it is only a block on 'cold-calling'.

As CTPS registration only prevents marketing calls, organisations will still be able to call you to buy your products or services, or to make an enquiry, or to conduct genuine market research.

The CTPS register is a list of numbers, not companies. This means that if you change your telephone number you will have to register your new number to prevent marketing calls to that number. If you want to stop unsolicited direct marketing calls to all your company's telephone numbers, you will have to register every number, not just your switchboard number. You should consider carefully whether you need to prevent calls to all your numbers, or just some individuals or departments.

If you have an existing contact who you want to continue receiving direct marketing calls from, you should contact them to let them know that you are still happy to hear from them. Otherwise they may stop calling you when they screen their calling lists against the CTPS list.

Making a complaint

If you have received an unsolicited marketing call or fax to a number registered with the CTPS or FPS, you should inform the caller that the number is registered and ask them to suppress your details so that they don't call or fax you again.

You can complain to the TPS via their website: www.tpsonline.org.uk. You can also report unwanted sales calls to the ICO on the [complaints section of our website](#). Although we cannot investigate every individual case, reporting your concerns will help us decide

where we need to take action in the future.

We aim to help responsible organisations comply with PECR by providing advice and guidance. However, we will take enforcement action against organisations that persistently ignore their obligations, starting with those that generate the most complaints.

Other considerations

PECR set out slightly different rules for direct marketing to companies and other corporate bodies, and direct marketing to individuals. This guidance only covers the rights of corporate bodies not to receive unwanted sales calls or faxes.

If you are an individual consumer, a sole trader, or work for an unincorporated partnership, you get a higher level of protection under PECR. More information on your rights under PECR and advice on how you can cut down on unwanted marketing is available on the [‘For the public’](#) pages of our website.

If you want to make marketing calls or send marketing material by fax or other electronic means (eg text or email), you must comply with PECR. More information on your obligations under PECR and how to comply with the law on direct marketing is available in [our guidance on direct marketing](#).

More information

Additional guidance is available on [our guidance pages](#) if you need more information on other aspects of PECR or the Data Protection Act.

This guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunals and courts.

It is a guide to our general recommended approach, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of PECR, please [contact us](#), or visit our website at www.ico.org.uk.