

# **ENFORCEMENT NOTICE**

Home Improvement Marketing Ltd

**28 August 2025**

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**DATA PROTECTION ACT 1998**

**SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER**

**ENFORCEMENT NOTICE**

To: Home Improvement Marketing Ltd

Of: Prospect House, Llanddewi Velfrey, Narbeth, Wales, SA67 7PA

**Introduction**

1. The Information Commissioner ("the Commissioner") has decided to issue Home Improvement Marketing Ltd ("HIML") with an Enforcement Notice under section 40 of the Data Protection Act 1998 ("DPA"). This Enforcement Notice ("Notice") is being issued because of a serious contravention of regulations 19 and 24 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR").
2. HIML was previously served with a Preliminary Enforcement Notice dated 27 May 2025 which set out the Commissioner's provisional findings. HIML failed to make any representations to the Commissioner's provisional findings, and the Commissioner is satisfied that an Enforcement Notice remains an appropriate sanction.
3. This Notice explains the Commissioner's decision.

## Legal framework

4. HIML whose registered office is given above (Companies House Registration Number: 14756152) is the organisation stated in this notice to have instigated the use of an automated calling system for the purpose of making recorded direct marketing calls contrary to regulation 19 of PECR.

5. Regulation 19 of PECR provides that:

*"(1) A person shall neither transmit, nor instigate the transmission of, communications comprising recorded matter for direct marketing purposes by means of an automated calling system except in the circumstances referred to in paragraph (2).*

*(2) Those circumstances are where the called line is that of a subscriber who has previously notified the caller that for the time being he consents to such communications being sent by, or at the instigation of, the caller on that line.*

*(3) A subscriber shall not permit his line to be used in contravention of paragraph (1).*

*(4) For the purposes of this regulation, an automated calling system is a system which is capable of—*

- (a) automatically initiating a sequence of calls to more than one destination in accordance with instructions stored in that system; and*

*(b) transmitting sounds which are not live speech for reception by persons at some or all of the destinations so called."*

6. Regulation 24 of PECR provides:

*"(1) Where a public electronic communications service is used for the transmission of a communication for direct marketing purposes the person using, or instigating the use of, the service shall ensure that the following information is provided with that communication –*

*(a) in relation to a communication to which regulations 19 (automated calling systems) and 20 (facsimile machines) apply, the particulars mentioned in paragraph (2)(a) and (b);*

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*(2) The particulars referred to in paragraph (1) are –*

*(a) the name of the person;*

*(b) either the address of the person or a telephone number on which he can be reached free of charge."*

7. Section Regulation 2(1) of PECR defines direct marketing as "the communication (by whatever means) of advertising or marketing material which is directed to particular individuals."<sup>1</sup>

8. The Commissioner has issued public guidance for organisations in relation to Direct Marketing.<sup>2</sup> This provides clear guidance on the strict nature of automated marketing calls and the need for the person to have specifically consented to receive that type of call from the caller.

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<sup>1</sup> Prior to 20 August 2025, the definition of "direct marketing" had been provided for by Section 122(5) of the Data Protection Act 2018 ("DPA18"). Section 110(2)(c) Data (Use and Access) Act 2025 has since amended Regulation 2 of PECR to incorporate this definition.

<sup>2</sup> Direct marketing guidance | ICO; and Telephone marketing | ICO.

9. From 1 January 2021, consent in PECR has been defined by reference to the concept of consent in the UK GDPR as defined in section 3(10) of the DPA 2018<sup>3</sup>: see regulation 2(1) of PECR, as amended by Part 3 of Schedule 3, paragraph 44 of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419. Article 4(11) of the UK GDPR sets out the following definition: *"'consent' of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her"*.
10. Recital 32 of the UK GDPR materially states that *"When the processing has multiple purposes, consent should be given for all of them"*. Recital 42 materially provides that *"For consent to be informed, the data subject should be aware at least of the identity of the controller"*. Recital 43 materially states that *"Consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case"*.
11. "Individual" is defined in regulation 2(1) of PECR as *"a living individual and includes an unincorporated body of such individuals"*.
12. A "subscriber" is defined in regulation 2(1) of PECR as *"a person who is a party to a contract with a provider of public electronic communications services for the supply of such services"*.

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<sup>3</sup> The UK GDPR is therein defined as Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 ("GDPR") as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018

13. The DPA contains enforcement provisions at Part V which are exercisable by the Commissioner. Those provisions are modified and extended for the purposes of PECR by Schedule 1 PECR.
14. Section 40(1)(a) of the DPA (as extended and modified by PECR) provides that if the Commissioner is satisfied that a person has contravened or is contravening any of the requirements of the Regulations, he may serve him with an Enforcement Notice requiring him to take within such time as may be specified in the Notice, or to refrain from taking after such time as may be so specified, such steps as are so specified.
15. PECR were enacted to protect the individual's fundamental right to privacy in the electronic communications sector. PECR were subsequently amended and strengthened. The Commissioner will interpret PECR in a way which is consistent with the Regulations' overall aim of ensuring high levels of protection for individuals' privacy rights.
16. The provisions of the DPA remain in force for the purposes of PECR notwithstanding the introduction of the DPA18.<sup>4</sup>

### **The contravention**

17. The Commissioner finds that HIML contravened regulations 19 and 24 of PECR.
18. The Commissioner finds that the contravention was as follows:

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<sup>4</sup> see paragraph 58(1) of Schedule 20 to the DPA18.



19. Between 31 May 2023 and 31 August 2023, HIML instigated the transmission of 2,449,380 automated marketing calls to subscribers without their prior consent contrary to regulation 19 of PECR. This resulted in 274 complaints being made to the TPS and the Commissioner.
20. HIML provided no evidence that it obtained consent from subscribers to make these communications.
21. The Commissioner is therefore satisfied for the purposes of regulation 19(2) that in respect of these 2,449,380 automated direct marketing calls, HIML had not been notified by subscribers that they consented to receiving such communications.
22. The calls were therefore in contravention of regulation 19.
23. Automated marketing calls can only be made to people who have previously notified the caller that they consent to such communications being sent by, or at the instigation of, the caller. Consent must be freely given, specific and informed, and involve a deliberate and positive indication signifying the individual's agreement.
24. The Commissioner has issued guidance on what constitutes 'valid consent'.<sup>5</sup>
25. For consent to be valid it is required to be "freely given", therefore, people must have genuine choice and control over whether or not to consent to the direct marketing. It follows that if consent to marketing is a condition of subscribing to a service, the organisation will have to demonstrate how the consent can be said to have been given freely.

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<sup>5</sup> What is valid consent? | ICO



26. Consent is also required to be "specific" as to the type of marketing communication to be received, and the organisation that will be sending it.
27. Consent will not be "informed" if individuals do not understand what they are consenting to. Organisations should therefore always ensure that the language used is prominent, clear, easy to understand, and not hidden away in a privacy policy or small print. Consent will not be valid if individuals are asked to agree to receive marketing from "similar organisations", "partners", "selected third parties" or other similar generic descriptions.
28. Consent must also be "unambiguous", therefore it must be obvious that someone has consented to the direct marketing activity, and there must be a clear affirmative action to indicate that they have provided their consent.
29. In this case the Commissioner is satisfied that HIML did not have the consent of the subscribers to whom it had instigated the transmission of 2,449,380 automated direct marketing calls. Further, the Commissioner is satisfied that HIML made no attempts to seek such consent.
30. Further, HIML failed, as required by regulation 24 of PECR, to provide the recipient of the calls with the particulars specified at regulation 24(2) of PECR.
31. The Commissioner has considered, as he is required to do under section 40(2) of the DPA (as extended and modified by PECR) when deciding whether to serve an Enforcement Notice, whether any

contravention has caused or is likely to cause any person damage or distress. The Commissioner has decided that it is likely that damage and or distress has been caused in this instance.

### **Conclusion and right of appeal**

32. In view of the matters referred to above the Commissioner hereby gives notice that, in exercise of his powers under section 40 of the DPA, he requires HIML to take the steps specified in Annex 1 of this Notice.
33. There is a right of appeal against this Notice to the First-tier Tribunal (Information Rights), part of the General Regulatory Chamber. Information about appeals is set out in the attached Annex 2.

Dated the 28<sup>th</sup> day of August 2025

Signed 

Andy Curry  
Head of Investigations  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **Annex 1**

### **TERMS OF THE ENFORCEMENT NOTICE**

HIML shall within 30 days of the date of this notice:

- Neither transmit, nor instigate the transmission of, communications comprising recorded matter for direct marketing purposes by means of an automated calling system except:
  - (a) where the called line is that of a subscriber who has previously notified HIML that for the time being he consents to such communications being sent by, or at the instigation of, HIML.
- Furthermore, where a public electronic communications service is used for the transmission of a communication for direct marketing purposes, HIML shall ensure that the recipient of the communication is provided with:
  - (a) the name of the person; and,
  - (b) either the address of the person or a telephone number on which he can be reached free of charge.

## **Annex 2**

### **RIGHTS OF APPEAL AGAINST DECISIONS OF THE COMMISSIONER**

Section 48 of the Data Protection Act 1998 gives any person upon whom an Enforcement Notice has been served a right of appeal to the First-tier Tribunal (General Regulatory Chamber) (the "Tribunal") against the Enforcement Notice.

If you decide to appeal and if the Tribunal considers:- a) that the Notice against which the appeal is brought is not in accordance with the law; or, b) to the extent that the Notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently, the Tribunal will allow the appeal or substitute such other decision as could have been made by the Commissioner. In any other case the Tribunal will dismiss the appeal.

You may bring an appeal by serving a notice of appeal on the Tribunal at the following address:

General Regulatory Chamber  
HM Courts and Tribunals Service  
PO Box 11230  
Leicester  
LE1 8FQ

Telephone: 0300 123 4504

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

The notice of appeal should be sent so it is received by the Tribunal within 28 days of the date of the Enforcement Notice.

If your notice of appeal is late the Tribunal will not admit it unless the Tribunal has extended the time for complying with this rule.

The notice of appeal should state:-

- a) your name and address/name and address of your representative (if any);
- b) an address where documents may be sent or delivered to you;
- c) the name and address of the Information Commissioner;
- d) details of the decision to which the proceedings relate;
- e) the result that you are seeking;
- f) the grounds on which you rely;
- g) you must provide with the notice of appeal a copy of the enforcement notice;
- h) if you have exceeded the time limit mentioned above the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time.

Before deciding whether or not to appeal you may wish to consult your solicitor or another adviser. At the hearing of an appeal a party may conduct his case himself or may be represented by any person whom he may appoint for that purpose.

The statutory provisions concerning appeals to the First-tier Tribunal (General Regulatory Chamber) are contained in sections 48 and 49 of, and Schedule 6 to, the Data Protection Act 1998, and Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (Statutory Instrument 2009 No. 1976 (L.20)).