

ENFORCEMENT NOTICE

Lead Pronto Ltd

6 November 2025

Contents

| | |
|---|-----------|
| Introduction | 3 |
| Legal framework..... | 4 |
| The contravention..... | 7 |
| Conclusion and Right of Appeal | 11 |
| Annex 1 | 12 |
| Annex 2 | 13 |

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

ENFORCEMENT NOTICE

To: **Lead Pronto LTD**

Of: **2 Egerton House, Tower Road, Birkenhead CH41 1FN**

Introduction

1. The Information Commissioner ("**the Commissioner**") has decided to issue Lead Pronto LTD ("LP") 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 Regulation 22 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("**PECR**").
2. LP was previously served with a Preliminary Enforcement Notice dated 22 May 2025, which set out the Commissioner's provisional findings. Having considered LP's representations submitted on 27 June 2025, the Commissioner is satisfied that an Enforcement Notice remains an appropriate sanction.
3. This Notice explains the Commissioner's decision.

Legal framework

4. LP, whose registered office is given above (Companies House Registration Number: 11563815) is the organisation stated in this Notice to have transmitted unsolicited communications by means of electronic mail to individual subscribers for the purposes of direct marketing contrary to regulation 22 of PECR.

5. Regulation 22 of PECR states:

"(1) This regulation applies to the transmission of unsolicited communications by means of electronic mail to individual subscribers.

(2) Except in the circumstances referred to in paragraph (3), a person shall neither transmit, nor instigate the transmission of, unsolicited communications for the purposes of direct marketing by means of electronic mail unless the recipient of the electronic mail has previously notified the sender that he consents for the time being to such communications being sent by, or at the instigation of, the sender.

(3) A person may send or instigate the sending of electronic mail for the purposes of direct marketing where—

(a) that person has obtained the contact details of the recipient of that electronic mail in the course of the sale or negotiations for the sale of a product or service to that recipient;

(b) the direct marketing is in respect of that person's similar products and services only; and

(c) the recipient has been given a simple means of refusing (free of charge except for the costs of the transmission of the refusal) the use of his contact details for the purposes of such

direct marketing, at the time that the details were initially collected, and, where he did not initially refuse the use of the details, at the time of each subsequent communication.

(4) A subscriber shall not permit his line to be used in contravention of paragraph (2)."

6. 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"*.¹
7. The Commissioner has issued public guidance for organisations in relation to Direct Marketing.² This provides clear guidance on the circumstances under which direct marketing emails can be sent.
8. 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 Data Protection Act 2018 ("DPA18")³: 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"*.

¹ 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.

² Direct marketing guidance | ICO; and Electronic mail marketing | ICO.

³ The UK GDPR is therein defined as Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 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.

9. "Individual" is defined in regulation 2(1) of PECR as *"a living individual and includes an unincorporated body of such individuals"*.
10. 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"*.
11. "Electronic mail" is defined in regulation 2(1) of PECR as *"any text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient and includes messages sent using a short message service"*.
12. 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.
13. 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 that Enforcement Notice, or to refrain from taking after such time as may be so specified, such steps as are so specified.
14. 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.

15. The provisions of the DPA remain in force for the purposes of PECR notwithstanding the introduction of the DPA18.⁴

The contravention

16. Having considered the representations made by LP, the Commissioner finds that LP contravened regulation 22 of PECR.
17. The Commissioner finds that the contravention was as follows:
18. The Commissioner finds that between 1 October 2023 and 5 February 2024 there were 76,605 direct marketing SMS received by subscribers. The Commissioner finds that LP transmitted the direct marketing messages sent, contrary to regulation 22 of PECR.
19. LP, as the sender of the direct marketing, is required to ensure that it is acting in compliance with the requirements of regulation 22 of PECR, and to ensure that valid consent to send those messages had been obtained.
20. In this instance regulation 22(3) conditions relating to soft opt-in were not met by LP. Means to opt out at the time the person's details were collected and in each communication thereafter were not provided by LP.
21. The Commissioner has issued guidance on what constitutes 'valid consent'.⁵
22. 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

⁴ see paragraph 58(1) of Schedule 20 to the DPA18.

⁵ What is valid consent? | ICO

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.

23. The Commissioner noted consent was not freely given as a person did not have the opportunity to request a quotation without agreeing to the terms of the privacy policy. Neither the form nor the privacy policy offered an opportunity to request a quotation without receiving marketing. The customer journey nudged people into agreeing to receive marketing and once consent was obtained, the procedure for ceasing future marketing appeared to be far more difficult. It cannot be argued that consent was freely given.
24. 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.
25. The Commissioner concluded, consent was not specific. Article 7 (2) of the GDPR (2018) states that consent should be '*clearly distinguishable from the other matters*', however LP did not clearly distinguish the topic of marketing within its privacy policy. Without scrutinising the privacy policy, a person would not know that they had consented to receive marketing based on the statement presented, nor would they know that LP sent marketing material without a thorough inspection. Consent is also not specific as it is not granular. The customer is advised in the privacy policy that data is collected for LP to contact people about products and services via '*...post, telephone, SMS, email and other electronic means*'. People cannot specify how they wish to be contacted and consent is assumed for all. It cannot be argued that consent was specific.

26. 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 description.
27. The Commissioner noted not enough information is provided to make an informed decision about consent. LP failed to provide details of how to contact the organisation in order to withdraw consent/refuse marketing. LP failed to provide details of the organisations it shares the data with. LP provided the Commissioner with a list of 18 clients it generated data on behalf of, but none of these companies were listed in the privacy policy. It cannot be argued that consent was informed.
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. Consent for marketing was bundled into the site’s privacy policy and it was not clearly distinguishable from other matters. The button for submitting your information was labelled, ‘*Check if you qualify*’. The wording used did not give any indication that the information was being provided for any purpose other than an eligibility check. It cannot be argued that consent was collected unambiguously.
30. The Commissioner has considered the ‘consents’ obtained. The **evidence demonstrates** that LP did not have valid consent to send the marketing, as consent was not freely given, specific, informed and unambiguous.

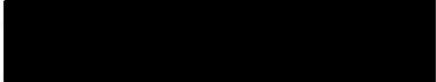
31. The Commissioner is satisfied from the evidence he has seen that LP did not have valid consent to send the marketing, as consent was not freely given, specific, informed and unambiguous.
32. The Commissioner has taken into consideration the written representations made by LP in response to the service of the Preliminary Enforcement Notice, on 27 June 2025.
33. The Commissioner noted that LP's representations did not challenge the Commissioner's primary findings, that LP had sent 76,605 SMS messages without valid consent, that the messages did not meet the criteria for the soft opt-in, and that no valid opt-out was provided at the time personal data was initially collected or within the body of the SMS messages.
34. The Commissioner is satisfied from the evidence he has seen that LP did not have the necessary valid consent for the 76,605 direct marketing messages received by subscribers.
35. 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. The Commissioner has decided that it is likely that damage has been caused in this instance. The reasons for this are as follows.
 - The personal data used for the marketing was not obtained in accordance with PECR. The marketing infringes upon subscribers' right to privacy and risks causing distress to individuals receiving it.

- The marketing was aimed at people on low incomes, who may be more likely to engage with such offers due to financial pressures.

Conclusion and right of appeal

36. In view of the matters referred to above, the Commissioner hereby issues this Enforcement Notice, in exercise of his powers under section 40 of the DPA, to require LP to take the steps specified in Annex 1 of this Notice.
37. There is a right of appeal against this Notice to the First-tier Tribunal (General Regulatory Chamber). Information about appeals is set out in the attached Annex 2.

Dated the 6 day of November 2025


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

Annex 1

TERMS OF THE ENFORCEMENT NOTICE

LP shall within 30 days of the date of this Notice:

- Except in the circumstances referred to in paragraph (3) of regulation 22 of PECR, neither transmit, nor instigate the transmission of, unsolicited communications for the purposes of direct marketing by means of electronic mail unless the recipient of the electronic mail has previously notified LP that he clearly and specifically consents for the time being to such communications being sent by, or at the instigation of, LP.

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

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)).