

Operation LINDEN

Unsolicited Marketing Communications Strategy Meeting

Location: 30 Euston Square, Kings Cross, London.

Date/Time: 03 July 2019 / 13.00 – 16:00

Attending:

Name	Organisation
Kerry Smith (KS) (CHAIR)	Information Commissioner's Office (ICO)
Steve Flack (SF)	ICO
Alister Pearson (AP)	ICO
Siobhan Woolmer (SW)	Gambling Commission
Priya Warner (PW)	Fundraising Regulator
Sarah Scott (SS)	Phone-paid Services Authority
Rosaleen Hubbard (RH)	Direct Marketing Commission
Matt Davidson (MD)	Charity Commission
Helen Kibbey (HK)	Charity Commission
Tony O'Sullivan (TO)	Insurance Fraud Bureau
Gavin Daykin (GD)	Ofcom
Madhu Bedhan (MB)	Ofcom
Christopher Hall (CH)	Solicitors Regulation Authority
Barbara Kubis-Labiak (BKL)	Financial Conduct Authority
Greg Williams (GW)	Financial Conduct Authority
Richard Clarke (RC)	National Trading Standards Scams Team
Alan Tonge (AT)	Insolvency Service
Iain Macgregor (IM)	Insolvency Service

Apologies:

Ian Woodham (BT), Carol Doughty (The Pensions Regulator).

Aim of LINDEN

To capture and share intelligence effectively and identify, plan, deliver and promote coordinated activity to maximise enforcement opportunities against individuals and organisations responsible for breaching legislation associated with unsolicited marketing texts, live and automated calls and silent or abandoned calls. To protect the privacy and consumer rights of individuals and to improve compliance.

Agenda

- **Introductions (All)**
- **ICO Updates** - Including a wrap up of reporting; focusing on a six monthly update, recovery actions and what we have planned
- **Activity and action update** - 5 minute update on relevant activity from each organisation, as well as proposed actions for the next quarter. **(All)**

- **Ofcom Update** – implementation of STIR
- **Operation Linden survey results**
- **Week of action** - proposals for future proactive work
- **Financial Recovery Unit update**
- **Operations update**
- **International enforcement update**
- **AOB** (next meeting / host)

Introduction

KS welcomed the attendees.

ICO Updates provided by KS

Enforcement

- Financial year 18/19
24 penalties issued for breaches of the Privacy and Electronic Communication Regulations against companies making or sending calls and messages; for a total of £2,208,000.

CMP breakdown 2018/19:

- Email: 8 - total £379,000
- Live: 12 - total 1,620,000
- Auto: 1 - total £70,000
- SMS: 3 - total £139,000

- Financial year 2019/20, Quarter 1; 4 penalties issued to date totalling £390,000
 - Smart Home Protection Limited - £90,000 for breaches of Reg 21
 - Avalon Direct Limited - £80,000 for breaches of Reg 21
 - Hall & Hanley - £120,000 for breaches of regulation 21
 - EE Limited - £100,000 for breaches of regulation 22 of the PECR

Intelligence

Concerns reported to ICO by type June 2018 – June 2019:

- June 2018 – Live: 5,240; Auto: 4,408; SMS: 1,249
- July – Live: 5,973; Auto: 4,620; SMS: 1,231
- August – Live: 5,337; Auto: 3,956; SMS: 1,119
- September – Live: 7,925; Auto: 7,843; SMS: 1,195
- October – Live: 7,547; Auto: 6,980; SMS: 1,245
- November – Live: 6,089; Auto: 5,132; SMS: 1,218
- December – Live: 3,031; Auto: 3,421; SMS: 974
- January – Live: 5,236; Auto: 4,266; SMS: 1,268

- February – Live: 6,167; Auto: 4,691; SMS: 1,114
- March – Live: 6,775; Auto: 5,461; SMS: 1,318
- April – Live: 4,645; Auto: 5,130; SMS: 1,303
- May – Live: 5,118; Auto: 5,491; SMS: 1,096
- June 2019 – Live: 4,618; Auto: 4,592; SMS: 1,073

Potential reasons for compliant level variation:

- Increase public awareness of the ICO and our enforcement work following the implementation of the GDPR and the cold calling ban on claims management companies;
- CMPs and other enforcement action receiving widespread and high profile media coverage, raising awareness of the online reporting tool.

Current trends

- Anticipate a dip in the amount of complaints in part due to summer holidays
- Expect to see a continuation of a general increase in complaints as the implementation of GDPR continues to raise awareness of individuals' rights
- Life insurance reviews increasingly prevalent
- Following implementation of cold calling ban for pensions, the ICO has a number of investigations in progress. Many calls masquerade as more general marketing of financial investments

Activity & Action Update (ALL)

Gambling Commission

The Gambling Commission now has access to 7726 data due to the amendment of the non-disclosure agreement between the ICO and the telephone network providers. It is forecasted that this will provide a rich new intelligence source and lead to enhanced targeted enforcement action.

Fundraising Regulator

- Operates the Fundraising Preference Service which allows people to control the nature and frequency of direct marketing communications that they receive from fundraising organisations registered in England, Wales and Northern Ireland.
- Approximately 1,600 charities having at least one suppression list and just over 28,000 suppressions have been requested.
- List of charities which have failed to suppress contact details is compiled each month and referred to the ICO and the Charity Commission.
- They publish a list of charities that have failed to access and action an FPS suppression. This list is updated monthly.

Phone-paid Services Authority

Beginning work which will look at code 40 and code 50 provisions and are scoping out what additional powers these will bring. This is estimated to take one to two years.

Digital Marketing Commission

- Complaints mostly generated from the public, with B2B complaints a minority.
- Reports about calls are the most popular with email complaints a minority.
- DMC refers complaints to the ICO or National Trading Standards when they are unable to respond.
- Noted trend of companies relying on aged consent.

Insurance Fraud Bureau

- Data vishing continues to be a long standing issue, affecting both insurance companies and customers.
- IFB, in collaboration with the ICO's criminal investigations team, have taken successful enforcement action against companies who used data vishing.
- Current issue is 'Google ad-spoofing'; companies spoofing established insurance companies. Unsuspecting consumers use the contact number on the advert to contact what they think is their insurer, but are in fact lead generators. Leads to fraudulent companies obtaining personal data and generating leads.

Ofcom

- Continue to evaluate cases for enforcement through analysing Ofcom's CCT complaints data and nuisance calls measurement reports
- Continue to engage informally with number range holders whose numbers are the subject of misuse; powers to withdraw numbers where holders do not take effective steps to stop the harm being caused by misuse of their numbers.
- Established a 'Do Not Originate' which they share with providers who are part of the strategic working group. (This relates to numbers which would never be used by banks on outbound calls, and which can be safely blocked by members of the industry working industry.) Ofcom have been working with UK Finance and HMRC to promote this list. Continues to engage with a strategic industry working group of 10 of the largest communications providers (CPs) to develop and implement technical measures to reduce the impact of nuisance calls through network-level blocking and call-diverting. Ofcom are continuing to push and apply pressure on other CPs to offer customers blocking or diverting facilities.
- Working with the UKRN; preventing authorised push payment scams strategy.
- Published their Nuisance calls tri-annual tracker research in May 2019.

Solicitors Regulation Authority

- Recently agreed a regulatory settlement agreement with Findmyclaims Ltd (FMC). FMC sent more than 6 million unsolicited marketing letters between November 2016 and September 2017 and fined £124,436.

Financial Conduct Authority

- FCA took responsibility of regulation of CMC from CMRU 3 months ago.
- 60 companies are winding down following first application window (for authorisation)
- Next application window is between 1 June and 31 July 2019; focusing on lead generation companies.
- Seeing firms buying companies back books and working on them.
- Postal marketing is a hot topic with firms relying on legitimate interests.

National Trading Standards Scams Team

- Took joint action with Federal Trade Commission in prosecuting US based mail fraudsters who targeted UK victims. \$160 Million restrained and subsequently forfeited. Largest forfeiture around mail in FTC history.
- Work continues to identify UK based data brokers.
- Roll out of Friends Against Scams enrolment and training; 1m friends to be achieved by 2020. Development of friends against scams and scam marshal websites.
- Continued feed into NTS and overseas law enforcement agencies to support investigations and disruption activity.
- Provision of alert system to mail and telephone providers around upcoming identified scams, bogus companies and potential threats to business.

Insolvency Service

- 9,059 cases sifted, which has led to 1,242 disqualifications. The average length for a disqualification is 5.5 years. 84 disqualifications were for 10 or more years.
- More companies being defrauded by 'publishers' to buy advertising space.
- Increase in companies suffering from other companies cloning, hijacking or impersonating them.
- ICO referred call-blocking scam to live investigation teams

Ofcom – implementation of STIR

- Focusing on tackling spoofing and scams. CPs have been moving customers from PSNIs to IPs; IP-based networks are easier to spoof and masking numbers is easier. Working with the FTC and the Canadian regulator to establish a way of authenticating legitimate numbers; amalgamating all CLIs in a database so they can be authenticated. Possible implementation in 2021/22.

Financial Recovery Unit Update

- Q1 2019/20 four PECR penalties have been issued: two have been appealed and two have been paid in full
- 2018/19:
 - 5 penalties remain subject to appeal;
 - 10 have been paid (including one PP);

- 8 are subject to recovery (five of which are now in liquidation)
- 2 companies recently wound up: AMS Marketing Ltd & Oaklands Assist UK Ltd
- Holmes Financial Solutions Ltd; winding up hearing scheduled 10 July 2019
- FRU will continue to support IP's investigations.

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We are to conduct a proactive 'mystery shopping' intelligence gathering exercise aimed at identifying organisations seeking to obtain personal data from data subjects and where contact or processing may be in breach of PECR/ DPA 2018/GDPR.

Operation HIDA

- The ICO currently has an active work stream on data brokers in relation to direct marketing.
- The audits of the six data brokers, which include the three main CRAs, are still ongoing.
- These, as publicly reported, are: Acxiom Ltd, Data Locator Group Ltd, Equifax, Experian, GB Group plc and, TransUnion (formerly Callcredit).

International Enforcement Update

AP provided an update; the next UCENet meeting is scheduled for October and will be hosted in Montreal. The ICO hopes to attend.

AOB

- KS confirmed there was no other business and closed the meeting, advising the next meeting would be planned for September / October.