

# Email legislation

## Email legislation

*Last updated: Dec 2011*

Due to the complications surrounding email marketing, Corpdata have spent considerable time and resource in collating all relevant facts regarding this form of direct marketing.

This document has been created to provide you with an unbiased source of information about the use of email, enabling you to make an informed decision about whether you wish to pursue this methodology of communication within the general marketplace.

The sources used to create this document range from the International Communications Policy branch at the DTI (we currently have a representative involved with the public consultation for the E-Commerce Directive) to various Internet Service Providers (ISP's).

At present there are five main areas to be aware of for Unsolicited Commercial Emails (UCE's).

## **1: Distance Selling Directive:**

Implementing regulations in the UK only cover business to consumers, and do not impose any statutory schemes; instead they rely on existing voluntary schemes.

## **2: E-Commerce Directive:**

This was implemented on the 21st of August 2002, with the Stop Now Orders coming into force in October 2002. The regulations contain provisions on commercial e-commerce communications and include a requirement that all UCE's (Unsolicited Commercial Emails) should be easily identifiable as soon as they are received (thereby enabling automatic deletion / filtering). It also states all websites should have full postal and telephone contact details.

Further information can be found on the DTI website:

<http://www.legislation.gov.uk/ukxi/2002/2013/contents/made>

## **3: Directive on Privacy and Electronic Communication (DPEC):**

The DPEC (formally known as the Communications Data Protection Directive) requires implementation by 11th December 2003. It states that an opt-in

approach must be used when marketing by email to natural persons (private individuals and sole traders anywhere in the UK, and Partnerships in England, Wales and Northern Ireland), with an exception where there is an existing customer / business relationship between parties.

An opt-out approach will exist for corporate subscribers (@company.co.uk). The sender is responsible for complying with this legislation.

Further information can be found on the DTI website:

<http://www.legislation.gov.uk/ukxi/2003/2426/contents/made>

## **4: The Data Protection Act (DPA):**

All contact details that include personal data whether corporate or individual are covered by the Data Protection Act (DPA) legislation. It states that individual subscribers (name@company.com or name@isp.com) must be able to opt-out from all UCE. The sender is responsible for complying with this legislation.

## **5: Internet Service Providers (ISP's)**

The majority of Internet Service Providers (ISP's) are

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involved with self-policing the Internet Community. This includes company policies regarding UCE's and 'Spamming'.

For example:

- Hotmail strictly forbids sending UCE's and terminates all reported accounts that do so.
- Aros.net will terminate your account and charge £125 per hour for a cleanup operation.

### Other Requirements

Some industries (Financial services, and the health sector are good examples) have additional legal requirements about how they conduct their marketing. Check for any specific legislation that may apply to your sector.

### Corpdata's Email policy

Corpdata research email addresses for sites and individuals as part of our on-going data research cycle every six months.

Email addresses contained within our database are available to use so long as the company, who's email is being sent, has a clear description of the product and has clear and working unsubscribe / opt out

facility within the body of the email. Email addresses supplied by Corpdata will only include LTD, PLC or Public Sector companies as current legislation prohibits the sending of UCE's to Sole Traders or Partnerships.

The information contained within the Corpdata database is believed to be accurate to the best of Corpdata's ability, however email addresses are not guaranteed by the Corpdata 'Two for One Double Your Money Back' Quality Guarantee due to the high decay rate of electronic data.

Additionally, Corpdata shall not be liable, nor accept responsibility for direct or indirect loss, consequential loss or loss of profits suffered by the user of email addresses supplied in any database for any reason whatsoever including ISP policies, Government legislation, non connection or inaccurate data.

Corpdata's liability in respect of, or arising from the database shall not exceed the fees paid by the user to Corpdata under this agreement.

Corpdata abides by the UK Email legislation, but do not condone the use of email addresses contained within our database for 'spamming' purposes.

## Corpdata Advice

Corpdata has formed a general view on what is a reasonably good approach to email marketing, however your specific sector, and products & services may affect this.

Email marketing is emotive, and other organisations will consider that a looser/tighter process is appropriate but generally Corpdata would recommend the following :

- Do not simply believe any data provider if they say they can sell you an opt-in email list - this is virtually impossible since the legislation says that the recipient has to have opted in to receiving emails from the sender specifically.

- Do not use email marketing to "private individuals" unless they are clients, or have opted into receiving YOUR information. Your data supplier may be able to provide you with email addresses for these people, but it is best to conduct an "opt-in" campaign to talk to them on the phone and ask if you may communicate with them by email.

- Private individuals include; Sole traders, & partnerships and we would recommend you also

consider anyone with a non corporate domain as a private individual (e.g. @hotmail.co.uk / @gmail.com)

- Corporate prospects (separate legal entities such as Ltd / Plc's) may be email marketed to, but you should consider the merit of an opt-in campaign anyway as it will probably be seen as less intrusive and can substantially improve your results.

- Even though it is a cheap to use mechanism don't just stack up as many emails as possible. Consider the relevance of your offer to the recipient - if they can't see the relevance they will not appreciate your email and might be very offended.

- You MUST include a working opt-out facility.

- You MUST include your company details in such a way that they can opt-out easily and without financial cost.

- You should clearly identify that your email is unsolicited.

- Check the rules of your ISP before you hit send, they might block all your emails and even suspend all access to your domain (web pages too)

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- There are some organisations who have a view on email marketing which is MUCH more restricted - one or two of these can also cause you to have significant headaches in the same way as ISP's

- Re-check the legislation. It is changing all the time as case-law is evolved.

Trying to cut corners in email marketing is unhelpful - it will reduce your return, and may cause you legal problems.

And finally, please ask yourself the question "*Is email really the most appropriate medium for the specific offer in question?*" - it is worth considering that if your message seems inappropriate at any level it will be deleted in the blink of an eye . . . BUT whilst the eye is blinking you can create a negative impression of your company & your brand. If you do it wrong your campaign could prove to be the most expensive campaign you ever run.

In a nutshell, treat your email marketing ethically. Treat the recipient as you would like to be treated yourself. Expect to upset people - you will! Never forget you are attaching your brand to email marketing, always consider negative brand impact before hitting send.

**Source of Information** – Assistant Director of E-Commerce & Communications Privacy Directives (Department of Trade & Industry)

## About Corpdata

Corpdata are a UK B2B marketing data list owner, providing up-to-date mailing list data for B2B direct mail, telesales and email marketing.

*What sets us apart from the rest is that we constantly monitor and update our business data to give you the greatest return on investment of time, money and energy.*

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