

UK ICO Issues Record Fine for Autodial Violations

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On February 24, 2016, the Information Commissioner's Office (ICO) announced its decision to fine Prodiad Ltd £350,000. Prodiad is a company that generated leads relating to individuals making claims for payment protection insurance refunds. According to the decision, the ICO received over 1,000 complaints from individuals who received automated marketing calls enquiring as to whether the call recipient was interested in claiming a PPI refund.

The calls did not indicate that they were coming from Prodiad, and according to the ICO, the opt-out mechanism did not always work. In response to an inquiry from the ICO about whether call recipients had opted in to receive these calls, Prodiad indicated that it had "purchased 'opt-in' data from a reputable supplier and that the data had been screened against the TPS list before it was added to [the Prodiad] database."

The TPS (Telephone Preference Service) list contains the numbers of those in the UK who have opted out of receiving marketing calls. No evidence of consent was provided to the ICO, however, and the ICO concluded that Prodiad had violated 19(1) and (2) of the Privacy and Electronic Communications (EC Directive) Regulations 2003 by calling (over 40 million) people using an automated calling system without consent.

Similar to U.S. regulations, the UK regulation defines an automated calling system as one "which is capable of (a) automatically initiating a sequence of calls to more than one destination and in accordance with instructions stored in that system and transmitting sounds which are not live speech for reception by persons at some or all of the destinations so called." And if using such a system, prior consent from the caller is required.

In finding that Prodiad's violation was sufficiently serious to justify a high fine, the ICO noted that it had published guidance for companies making it clear that they needed to obtain consent if they were going to be using an automated calling system to provide the call recipient with marketing content. The fine imposed is the largest fine levied by the regulator to date.

TIP: This case is a reminder that companies making autodialed marketing calls in the UK need prior consent and should otherwise familiarize themselves with the requirements for electronic and telephone marketing. The [ICO guidelines](#) in this area are a helpful resource.

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Author

Suzanne Labi

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Suzanne Labi

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