[GB] ICO targets companies for seeking to illegally make profit from the current public health emergency

IRIS 2020-10:1/2

Alexandros K. Antoniou
University of Essex

On 24 September and 8 October 2020, the Information Commissioner's Office (ICO), the United Kingdom's independent body established to uphold information rights, imposed fines on two companies for sending thousands of nuisance marketing texts and unlawful marketing emails at the height of the current pandemic.

In September 2020, Digital Growth Experts Limited (DGEL) was issued with a monetary penalty of GBP 60 000 in relation to a serious contravention of Regulations 22 and 23 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR). The PECR provide for specific privacy rights in relation to electronic communications. They include rules on marketing calls, emails, texts and faxes; cookies (and similar technologies); keeping communications services secure; as well as on customer privacy in relation to traffic and location data, itemised billing, line identification, and directory listings. Under the 2003 Regulations, ICO has the power to impose a monetary penalty of up to GBP 500 000 on a data controller.

The Commissioner found that between 29 February and 30 April 2020, DGEL had transmitted 16 190 direct marketing texts promoting a hand sanitising product, which was claimed to be "effective against coronavirus". The company came to the attention of the Commissioner after several complaints were received via the GSMA's spam reporting tool (the GSMA is an organisation that represents the interests of mobile operators worldwide). In the course of the investigation, DGEL was unable to provide sufficient evidence of valid consent (as required by PECR) for any of the messages delivered to subscribers over the relevant period. The company's explanations for its practices and the means by which it had obtained the data used for its direct marketing were found to be "unclear and inconsistent". DGEL had also used data obtained via social media ads which purported to offer free samples of the product to individuals, to automatically opt them into receiving direct marketing without advising them that their data would be used for this purpose, and without giving them (at the point the data was collected) a simple way of refusing the use of their contact details for direct marketing.

© European Audiovisual Observatory (Council of Europe) 2026

In October 2020, ICO again took action against a London-based software design consultancy, Studios MG Limited (SMGL), which had sent spam emails selling face masks during the pandemic. The company was fined GBP 40 000 for having transmitted unsolicited communications by means of electronic mail for the purposes of direct marketing, contrary to Regulation 22 of PECR. More specifically, on 30 April - in the midst of the pandemic - SMGL sent up to 9 000 unlawful marketing emails to people without their permission. SMGL did not hold any evidence of consent for the individuals it had engaged in its one-day direct marketing campaign. ICO held that SMGL's campaign had been made possible by using "data which had been scraped from various vaguely defined sources". ICO's examination also found that SMGL's director had decided to buy face masks to sell on at a profit, despite the fact that the company bore no apparent relation to the supplying of personal protective equipment (PPE). Moreover, it was impossible in SMGL's case to determine the total number of individuals whose privacy had been affected, as the company had deleted a database with key data evidencing the full extent of the volume of emails delivered.

During the pandemic, ICO has been investigating several companies as part of its efforts to protect people from exploitation by unlawful marketing-related data processing activites. The ICO Head of Investigations said in a statement that DGEL "played upon people's concerns at a time of great public uncertainty, acting with a blatant disregard for the law, and all in order to feather its own pockets." A hard line was also taken in relation to SMGL. The Head of Investigations stated that "nuisance emails are never welcome at any time, but especially when people may be feeling vulnerable or worried and their concerns heightened."

Digital Growth Experts Limited monetary penalty notice, ICO

https://ico.org.uk/media/action-weve-taken/mpns/2618330/dgel-mpn-20200922.pdf

ICO fines company flouting the law in order to profiteer from the coronavirus pandemic, ICO

https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/09/ico-fines-company-flouting-the-law-in-order-to-profiteer-from-the-coronavirus-pandemic/

Studios MG Limited monetary penalty notice, ICO

https://ico.org.uk/media/action-weve-taken/mpns/2618388/studios-mg-limited-mpn.pdf

© European Audiovisual Observatory (Council of Europe) 2026

ICO takes action against company for sending spam emails selling face masks during pandemic, ICO

https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/10/ico-takes-action-against-company-for-sending-spam-emails-selling-face-masks-during-pandemic/

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026