

## Corporate Telephone Preference Service (CTPS)

The following information is designed to give any companies involved in business to business direct marketing calls (either directly or via an agency such as ITTS) an overview of the changes in legislation affecting unsolicited marketing by telephone.

### In summary

Companies may register any or all of their telephone numbers (switchboard, direct and mobile) with the Corporate Telephone Preference Service free of charge. Once registered, there is a 28 day amnesty, after which further marketing calls may be reported to the Information Commissioner who are able to take action against the company instigating the calling at their discretion. Breaches of the CTPS are punishable with fines of up to £5000 per breach. Over 50,000 telephone numbers are already registered with CTPS.

Any data that is used for direct marketing calls must therefore be screened against the Corporate Telephone Preference Service list every 28 days.

### What is the Corporate Telephone Preference Service?

The Corporate Telephone Preference Service has been set up following the publication by the DTI of the new Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2004. The new Regulations will come into force on 25<sup>th</sup> June 2004 and will amend the existing Privacy and Electronic Communications (EC Directive) Regulations 2003. The new Regulations mean that it is unlawful for someone in business (including charities or other voluntary organisations) to make unsolicited sales and marketing calls to a telephone number allocated to a corporate subscriber if that corporate subscriber has either told that business or organisation that they do not want to receive such calls or has registered the number with the corporate TPS that they do not wish to receive such calls from *any* business or organisation.

### Who needs to comply with the Regulations?

All those in business (including charities and voluntary organisations) who make direct marketing telephone calls to corporate subscribers must comply. Both 'cold' lists and customer lists should be screened against the Corporate TPS file before telephone calls are made to ensure compliance with the new Regulations.



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*The information contained in this document does not constitute legal advice.*

## What constitutes a telemarketing call?

A telemarketing call is one where the caller is promoting their goods and services or their aims and ideals and includes fundraising calls. In other words, it could be a promotional call from a commercial enterprise, a charity or even a political party. A call made by a market researcher or opinion pollster is unlikely to be a telemarketing call unless part of the call also includes the promotion of a particular product or service or a particular cause. A call to check contact details is unlikely to constitute a marketing call but telemarketers should guard against trying to circumvent TPS registration by using such a call as a lead into a marketing call. Recipients of such calls can, of course, refuse to confirm contact details if they wish.

## My company already operates an in-house 'do-not-call' list. Do we need to sign up with the Corporate TPS as well?

The Regulations stipulate that direct marketing telephone calls should not be made to corporate subscribers who have registered with the Corporate TPS. You will therefore need to ensure you do not contact any corporate subscriber who is registered with the Corporate TPS as well as screening numbers against your own in-house "do-not-call" list.

## Can I call my customers?

The Regulations cover telephone calls made to customer lists as well as non-customer lists. You will be able to continue to call a customer only if they have previously indicated that they do not object to you calling them.

## What happens if my company calls a Number registered with the Corporate TPS?

Should a corporate subscriber registered with the Corporate TPS make a complaint about unsolicited direct marketing telephone calls from a business or other organisation, the Telephone Preference Service Limited (TPSL) will investigate the circumstances in which the call was made. A record of the complaint will be included on a regular report that is sent to the Information Commissioner's Office. The Information Commissioner's Office is responsible for enforcing the Regulations. A corporate subscriber can also contact the Information Commissioner's Office direct to complain about an unsolicited direct marketing telephone call which they have received.

## Who does the legislation define as a 'Corporate Subscriber'?

A corporate subscriber includes corporate bodies such as a limited company in the UK, a limited liability partnership in England, Wales and Northern Ireland or any partnership in Scotland. It also includes schools, government departments and agencies, hospitals and other public bodies.



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## Will registering stop all calls to our business?

The important point to note is that TPS registration only applies to unsolicited, that is, uninvited **telemarketing** calls, including fundraising calls. It will not prevent a company from calling you back with a quotation if you ring up and ask for one. That would be a solicited, that is, invited call. Nor does it prevent people from phoning **your** business to ask for a quotation from you or information about your products and services.

It should also be noted that only individual telephone numbers may be registered. You cannot register your company across the board. If you wanted to stop all uninvited telemarketing calls you would have to register all of your individual telephone numbers.

## We pay a subcontractor to make the calls for us. Isn't it their responsibility to make sure we don't break the rules?

No, under the Regulations it's your responsibility as the instigator of the call. They may have a contractual obligation to make sure you don't break the rules but if they let you down, **you** are responsible under the Regulations as the person who instigated the call. If the Information Commissioner were to take enforcement action, they would usually take it against **you** and not your subcontractor. You should check you have appropriate contracts in place to guard against such failures. If your subcontractor's failures cause you to break the rules, seek independent legal advice about an action for breach of contract and find another subcontractor who will ensure you don't break the rules.

It would be possible for the Commissioner to take action against subcontractors who allow their lines to be used in contravention of the Regulations (Regulation 21(2) refers) but this is more likely to apply where the subcontractor and their clients work in concert to disregard the Regulations. It is unlikely that this would apply, for example, to telemarketing activities conducted by individuals working at home on commission on behalf of a company using telephone lists provided by that company. This is because that individual could not be expected to know the full extent of the legal obligations by which that company is bound under these Regulations.

## If the subcontractor is making the calls on our behalf, do they have to provide their identity or ours?

They must provide your identity because you have instigated the call i.e., the call would not be made unless you paid for it to be made. If asked, your subcontractor or his call centre staff must provide a valid address or freephone number at which you can be contacted with an opt-out request.



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## How are ITTS assisting their clients in ensuring they remain compliant with the legislation?

ITTS has invested in a Corporate Agency Licence with the Corporate TPS as well as in the coding back-end that is needed to offer this as a full screening service. Any campaigns being run on behalf of clients by ITTS are automatically screened against CTPS and clearly marked when returned to the client in order to ensure no breaches of the regulations occur.

In addition ITTS can offer a screening service in order for companies to screen their own data on an as required basis. You would simply forward to ITTS an export of the customer and prospect data you hold (in excel, .csv or some other mutually agreed format). We would be able to provide a maximum 24 hour turnaround to identify and advise any suppressed numbers. This process would be repeated every 28 days (13 times p.a.).

## Why is ITTS offering such a service?

ITTS is primarily known as a supplier of telemarketing services to the IT industry. We work with a range of companies, large and small, providing services such as list cleaning/building, event delegate management, inbound lines, market research, telephone questionnaires, lead generation and major account profiling since 1992. The introduction of this legislation has a fundamental effect on the services we offer and so ITTS has made the decision to embrace the legislation and attaining the highest level of compliance possible in order to protect and preserve our client's integrity and reputation and to take the pain for conforming away from them.

## Further Information

If you would like further information on the Corporate Telephone Preference Service legislation then you may visit:

<http://www.informationcommissioner.gov.uk/eventual.aspx?id=96>

or

<http://corporate.mpsonline.org.uk/CTPSC/html/default.asp>

Alternatively if you'd like to know more about ITTS and the ways in which we can help with your specific requirements (be they CTPS or Telemarketing focussed) then please do not hesitate to contact us on: **0161 607 8888**.

Further information on ITTS's services may also be found at:

<http://www.itts.uk.com>



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