

Company Secretary  
121 Media  
145-157 Crusader House  
St. John Street  
London  
EC1V 4PY

16th June 2005

Reference: ELE0075260

Dear Sir/Madam

**Privacy and Electronic Communications (EC Directive) Regulations 2003**

The Information Commissioner is responsible for enforcing the Privacy and Electronic Communications (EC Directive) Regulations 2003 (the "Regulations"). We have received a complaint under those Regulations regarding a mobile phone marketing campaign that you have recently conducted.

As you are probably already aware, this is what the Regulations require:

**You cannot send unsolicited marketing by electronic mail to individual subscribers (i.e. residential subscribers, sole traders or unincorporated partnerships) without the recipient's prior consent (Regulations 22(2)).**

Text, picture, and video messages fall within the definition of "electronic mail".

There is an exception to this rule which applies where:

- 1) you collected the recipient's details in the course of a sale or negotiations for a sale,
- 2) you are only marketing **your** similar products and services; **AND**
- 3) you gave the recipient the chance to opt out when you collected their details and you continue to do so in every subsequent transmission.

(Regulation 22(3)).

Full and detailed guidance is available from our website the address for which is [www.informationcommissioner.gov.uk/eventual.aspx?id=96](http://www.informationcommissioner.gov.uk/eventual.aspx?id=96)

Based on the information provided by the recipient at [REDACTED] you sent the unsolicited commercial text message without their prior consent in contravention of

the Regulations. It appears that you were also unable to rely on the exemption to the prior consent rule.

You should now ensure that the recipient's details are suppressed. Although we do not propose to take any enforcement action against you at this time, you are strongly advised to revisit your method of collecting contact details to ensure that your marketing activities comply with your new obligations under the Regulations.

Should we receive any further complaints about your marketing activities, particularly in respect of this recipient, we will revisit this case with a view to considering formal enforcement action. If we do consider taking formal enforcement action you will be given the opportunity to make representations to us, however you may wish to do so beforehand to clear up any misunderstanding which you feel may have occurred. You may also wish to contact us for further guidance on the application of the Regulations.

Please ensure you quote the reference given at the head of this letter in any future correspondence on this matter.

Yours faithfully

Louise MacDonald  
Compliance Officer.