

Direct Marketing and Electronic Communications

In addition to the general obligations that apply under the Data Protection Acts, there are special data protection rules that apply where electronic communications are concerned.

These rules are contained in the European Communities (Electronic Communications Networks & Services)(Privacy and Electronic Communications) Regulations 2011. These regulations give effect to the European Union's ePrivacy Directive.

Under these regulations, firms are not permitted to send unsolicited electronic mail to individuals unless they have the individuals' prior consent to do so. Electronic mail (email) includes text messages, voice messages, sound messages, image messages, multimedia messages and email messages.

It is important to note that Irish Life cannot request a third party to perform direct marketing on its behalf such as asking a broker firm to forward on a marketing email to others; however, Irish Life may email broker firms about their latest offering and the brokers firms may choose to email their own customers with information about it. But any firm engaged in the direct marketing of customers needs to be cognisant of their obligations.

Some of the key pointers for a broker firm to remember when sending any direct marketing to by electronic means are:

- Prior "opt-in" consent must have been obtained from the customers in question, permitting the firm to use their contact details for direct marketing purposes
- When the details were originally collected, the customer must have been given the opportunity to object at that time, in an easy manner and without charge, to the use of their contact details for marketing purposes
- The email must include the name of the broker firm sending the email
- Each message sent must include an easy and cost-free way of opting out of receiving such communications in future

There are other requirements under data protection regulations in relation to collection of contact details and the age of contact details. There is an allowance for sending communications to existing customers if certain criteria is met however this is limited to marketing your own products and services. Therefore, it is strongly recommended that anyone intending to initiate electronic direct marketing should familiarise themselves with all requirements. These are available on the Data Protection Commissioners' website: www.dataprotection.ie

The Data Protection Commissioner enforces compliance with the requirements and there are penalties for non-compliance:

- It is a criminal offence to breach the rules related to direct marketing
- Fines up to €5,000 per summary offence (Each message to each individual would be deemed an offence!)
- Unsolicited marketing offences may be prosecuted on indictment and attract fines of up to €250,000 in the case of a company and €50,000 in the case of an individual