

## e-Portfolio Activity – GDPR Case Studies

<https://dataprotection.ie/en/pre-gdpr/case-studies>

There are several case studies from 2014 – 2018 concerning GDPR related issues and breaches. Chose a case study (should be unique to each student) and answer the following questions:

- What is the specific aspect of GDPR that your case study addresses?

My specific aspect of case study is related with **Prosecution of Guerin Media Limited**. The DPC received unrelated complaints from three individuals about unsolicited marketing emails that they had received from Guerin Media Limited. In all cases, the complainants received the marketing emails to their work email addresses. None of the complainants had any previous business relationship with Guerin Media Limited. The marketing emails did not provide the recipients with an unsubscribe function or any other means to opt out of receiving such communications. Some of the complainants replied to the sender requesting that their email address be removed from the company's marketing list. However, these requests were not actioned and the company continued to send the individuals further marketing emails. In one case, nine marketing emails were sent to an individual's work email address after he had sent an email request to Guerin Media Limited to remove his email address from its mailing list.

The DPC's investigation into these complaints established that Guerin Media Limited did not have the consent of any of the complainants to send them unsolicited marketing emails and that it had failed in all cases to include an opt-out mechanism in its marketing emails.

- How was it resolved?

While not directly applicable here, as the complainants were all individuals, organisations should also take note of a further rule in the E-Privacy Regulations concerning situations where the recipient of an unsolicited direct marketing communication is not an individual (e.g. the email address used is a solely company/corporate one and does not relate to the email account of an individual, whether at work or otherwise). In

such a case where the company/ corporate recipient notifies the sender that it does not consent to receiving such emails, it is unlawful for the sender to subsequently send such emails.

- If this was your organisation what steps would you take as an Information Security Manager to mitigate the issue?

This case is an important demonstration that any organisation engaging in electronic direct marketing activities should carefully establish the basis on which it considers that the primary default rule requiring a sending organisation to have the consent of the recipient does not apply to it in any given case, and how it can demonstrate this. The case also illustrates the importance of including an opt-out mechanism in each and every electronic direct marketing communication as failure to do so constitutes a separate offence, (in addition to any offences in relation to failure to obtain consent) in respect of each such email/ message.