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# IMPORTANT LEGAL INFORMATION

(2004 update)

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## *If you use the Phone or Fax During Your Business Activities Data Protection Legislation Will Affect You*

The 'Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1999' states that

*it is unlawful for someone in business (including charities and other voluntary organizations) to*

*make a call to individuals\* (including sole traders, and (except in Scotland) partnerships) who have indicated they do not wish to receive direct marketing calls or have registered with the Telephone Preference Service (TPS).*

*or*

*send a fax to anybody, whether a consumer or business, if the recipient has registered with the Fax Preference Service (FPS).*

*\* From May 2004 companies will also be able to place their telephone numbers on the TPS Register*

The act is very clear, before you make a call or send a fax to any existing, or potential new customer, who has not given you express permission to contact them, you should screen their telephone/fax numbers against the TPS/FPS Registers, and this should be done every 28 days.

**NB.** Individuals, Sole Traders and Partnerships are automatically covered by the FPS Legislation and do not even have to be on the FPS register to make faxing them unlawful.

Any breach of the new legislation will be dealt with by the Information Commissioner, and can attract **finest of up to £5,000.00** and in some cases **removal** of your **Data Protection Register entry**.

It will be very easy to fall foul of the law; in the past when you wanted to make a selling call to a business, you took the Yellow Pages off the shelf, found their number and picked up the phone – not any more, you must now first check that their number is not on the register.

The cost of the annual TPS Licence from the DMA is £ 7,500 per annum, and the FPS £ 3,750, however, Admar can screen your data against the register from as little as £ 30.00 plus VAT.

Royalty Payments of £ 2.00 per 1,000 records processed (or part thereof) must also be collected when screening against the TPS register.

*If you are placing a request for any other work with ADMAR then TPS, FPS & MPS Screening is performed at a discounted rate.*

Details of the service and current legislation can be found on our web site – [www.admar.co.uk](http://www.admar.co.uk), or you can request a full information brochure - contact details are below.

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# Overview of your Legal Obligations

## The Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1999

The Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1999 was introduced to protect people, and in some cases businesses, against receiving unwanted direct marketing telephone calls or faxes. The legislation has recently been expanded to allow companies (from May 2004) to also place their telephone numbers on the TPS Register to stop unsolicited calls.

### What are the broad details?

**Direct marketing telephone calls:** it is unlawful for someone in business (including charities or other voluntary organisations) to make such a call to any Individual if that Individual has either told that business or organisation that he/she does not want to receive such calls or has registered with the Telephone Preference Service that they do not wish to receive such calls from any business or organisation.

**Direct marketing faxes:** it is unlawful for someone in business (including charities or other voluntary organisations) to send such a fax to anybody, whether a consumer or business, if the recipient has registered with the Fax Preference Service. There is an additional protection for Individuals in that it is also unlawful to send a direct marketing fax to an individual who has not previously consented to receive it. This is a matter for the sender and recipient to work out between them. UK based companies who arrange to have the fax sent from another country, would still be covered by the legislation.

### Who are Individuals?

Individuals are consumers, sole traders, and (except in Scotland) partnerships.

### Who needs to comply with the Regulations?

All those in business (including charities and voluntary organisations) who make direct marketing calls to Individuals, or direct marketing faxes to anybody. Both 'cold' lists and customer lists should be cleaned against the Telephone Preference Service or Fax Preference Service registers before calls are made or faxes sent, to ensure compliance with the Regulations. This is in addition to checking such lists against in-house "do not call" lists. There is an exception to the above and that is where Individuals have already indicated to the calling business or organisation that they do not object to direct marketing telephone calls.

### How often do I need to clean my data?

As frequently as necessary to ensure that nobody protected by the Regulations, who has registered with either of the registers within the last 28 days, is contacted.

### Who enforce the Regulations?

The Information Commissioner (previously Data Protection Commissioner). The Telephone and Fax Preference Services will investigate initial complaints made to it by anybody whose registration has not prevented a call or fax, which it should have done but the Information Commissioner will determine any action for breach of the Regulations.

The Telephone Preference Service Ltd which administers the Telephone and Fax Preference Service registers is a subsidiary company of the Direct Marketing Association (UK) Ltd which OFTEL has appointed to manage the opt out registers.

**DMA Helpline No : 020 – 7291 3300**  
**TPS Registration Line : 0845 – 070 0707**  
**FPS Registration Line : 0845 – 070 0702**  
**MPS Registration Line : 0845 – 703 4599**

Please Note: ADMAR are not responsible for collating the TPS, FPS or MPS Registers this the responsibility of the DMA