

Privacy & Data Protection

Volume 16, Issue 2

December 2015

Headlines

- UK government issues Investigatory Powers Bill, p.17
- Tracking shop customers using wifi signals breaks privacy rules, says CPB, p.18
- Google accused of invading the privacy of students, p.19

Contents

<i>Expert comment</i>	2
<i>FTC v Wyndham: a sea change in regulating cyber security practices</i>	3
<i>Safe Harbor — is the EU guilty of double standards?</i>	5
<i>What Weltimmo said — the future of enforcement in the EU</i>	6
<i>Asset deals and customer data in Germany — a warning for other Member States</i>	8
<i>Cyber security — current state of play</i>	10
<i>2015 in review — key events and trends</i>	13
<i>News & Views</i>	17

UK regulator hones in on nuisance callers, issuing fine after fine

The Information Commissioner's Office is taking non-stop action against nuisance callers, issuing fines totalling £370,000 in four weeks.

UKMS Money Solutions Limited, a PPI claims company that sent more than 1.3 million spam texts, was fined £80,000. Poole-based Nuisance Call Blocker Ltd was fined £90,000. Telecom Protec received an £80,000 fine and Oxygen Ltd received the largest fine of £120,000.

UKMS used mobile phone numbers it had bought from list brokers to encourage people to

make a claim for PPI compensation. Nuisance Call Blocker and Telecom Protec were found to be making unsolicited marketing calls to people registered on the official Telephone Preference Service, while trying to sell products and services to block the type of cold calls they were making.

Oxygen Ltd made over one million calls, playing a recorded message claiming to be a 'government awareness call' and offering to write off debt. Further fines are expected, as the ICO recently wrote to more than 1,000 companies involved in buying and

selling people's names and numbers. The companies are all believed to play some role in the compiling and trading of lists of names and numbers used by cold callers.

Interestingly, the ICO said that not all of the companies were deliberately breaking the law.

"Sometimes companies aware of the law wrongly trust that the lists of names and numbers they buy come with the right permissions to make marketing calls. That mistake, and lack of due diligence in checking exactly what they are buying, results in

[\(Continued on page 17\)](#)

Freedom of Member States to legislate on data retention to be clarified

The UK Court of Appeal has referred questions on data retention to the Court of Justice of the European Union, after refusing to overturn the earlier decision of High Court that the UK Data Retention and Investigatory Powers Act (DRIPA) 2014 was invalid.

The government enacted DRIPA in July 2014 using emergency procedures, after the CJEU's decision

in Digital Rights Ireland invalidated the Data Retention Directive (2006/24/EC) because it conflicted with data protection rights under Data Protection Directive 95/46/EC.

However, a legal challenge against DRIPA, fronted by two UK MPs, was launched shortly after the new legislation came into force. Conservative MP David

Davis and Labour MP Tom Watson, backed by human rights campaign group Liberty, raised concern that the faults raised with the Data Retention Directive had been repeated in DRIPA and questioned whether the Act respected people's privacy rights.

In July 2015, the High Court ruled that DRIPA

[\(Continued on page 17\)](#)