

Dear Dawn,

Regarding reversed billed text messages.

[Later references to “*The Privacy and Electronic Communication (EC Directive) Regulations 2003*” referred to as ‘2003 EC Directive’.]

It is my opinion that there is a huge potential for reversed billed text messaging to be exploited. It is even a potential to be used for fraud / theft.

Recently my mobile phone operator replied “I’m sorry that you have been sent premier text messages... You’ll be charged for these types of messages if they’re received, even if they aren’t opened”

If tesco.com delivered an order of groceries to your door and you did not order them would you be required to pay for them?
If someone requested a direct debit from your bank because they thought as you had dealt with their cousin, it would be o.k. for them to offer you certain services - would you pay for it?

Reverse billed text messages are in my experience unsolicited (2003 EC Directive – paragraph 22.section 1 – Use of electronic mail for direct marketing purposes.)

I feel that certain unscrupulous service providers may have created a database of consumers like myself who have participated in seemingly innocent vote –in shows (e.g. “big brother” or “I’m a celebrity get me out now” –[examples only]) and then are targeted by reversed billed text messages from those service providers or their clients whenever their revenues are running low.

For example on 5/10/7 at 16.15 I got the following message – (unsolicited) – “To be in with a chance of winning a LG high-def 32in widescreen LCD television+ freeview tuner, just reply with LG. Its FREE to enter & good luck! Unsub txt stop” [from 80876]. This message suggests “free” but it was actually a reversed billed text message – at a cost of £1.50 and my mobile phone provider O2 states “***I regret to advise that o2 will not provide a credit for these charges as we’re unable to prevent these from being charged or received***”.

Under Section 22.3.a of *The Privacy and Electronic Communication (EC Directive) Regulations 2003* “***a person may send or instigate the sending of electronic mail for the purposes of direct marketing where (a) that person has obtained the contact details of the recipient of that electronic mail in the course of sale or negotiations for the sale of a product or service to that recipient***”. In this case I never had any previous dealings with 80876, I have never requested to be entered into or receive a text message for the draw and I had no previous contract with the company who it is alleged sent the text message. How many other people were sent similar text messages and reading the words “free” did not think to check if they were being charged for receipt of the initial text message?

I should have been forewarned on 5/10/7 with a charge free text for example “You are about to be sent a reversed billed text that will cost £1.50. to receive this text reply with yes to 8xxxxx to decline it do nothing. You have not been charged for this text” Had O2 or Phone pay plus got a procedure like this in place for reversed billed text messages I would have been able to decline the text and avoid being the charge.

Another example : on 20/12/2005 22.53 I got the following message from 85211 “I went for a walk with uncle jim, when somebody threw a tomato at him, tomatoes don’t hurt I replied with a grin. They very much do when theyre still in the tin” from 85211. Again the message seemed innocent but yet for this ‘joke service’ which I never subscribed to I was charged £1.50. When I contacted the service provider after a bit of a run around I was informed that about 14 months earlier I had sent a test message which confirmed my subscription to their service. Under Section 22.2 of the *The Privacy and Electronic Communication (EC Directive) Regulations 2003* I refer to the mention of “*the time being*” – “***Use of electronic mail for***

direct marketing purposes (2) Except in the circumstances referred to in paragraph (3) a person shall neither transmit, nor instigate the transmission of unsolicited communications for the purpose of direct marketing by means of electronic mail unless the recipient of the electronic mail has previously notified the sender that he consents for the time being to such communications being sent by, or at the instigation, of the sender". Why after allegedly 14 months was I sent out of the blue a text message which I did not want , which I did not know was about to be sent, which I had no means of refusing and which cost £1.50.

I believe before any reverse billed text message or ringtone or service is sent a free text stating e.g. "you are about to be sent a text/ring tone costing £x.xx. to accept this text and charge text yes to 8xxxx to decline this text and charge do nothing. You have not been charged for this text message"

I have no problems with this suggestion being shared with OFCom or being made public on your website , but please do not publish my email address or address on your website.

Michael Carroll