

Putting the lid on spam

No, you are not wrong. Yes, there has been a sharp rise in spam SMSes, e-mails and phone calls coming your way.



StartupStockPhotos via [pixabay](#)

Mark Smith, CEO of Cognition, formerly known as FoneWorx, believes that companies are making use of the "window period" (the waiting period for the official implementation of Protection of Personal Information Act or Popi) to communicate with as many consumers as possible.

Popi will hold private and public organisations liable for the safety of their customers' information. They will be forced to change processes and manage relationships with third parties to ensure the personal information and data they collect is protected. Under the new law, companies will have to get specific consent from end users to share their information.

A loophole

Though the act became law over a year ago, companies are rushing to sell their products and services before it is fully in effect. Lucien Pierce, partner at Phukubje Pierce Masithela Attorneys, says companies seem to be keen to "exploit" the fact that Popi is not yet effective and to gain as much ground as possible before this happens.

But even when it does, Pierce is not convinced it will banish spam. "I'm not sure that this will end when Popi is effective as, in my view, there's a loophole," he says. Popi allows a marketer (whether as an individual or as a company) to make one

unsolicited communication to a person they have not dealt with before. A "clever marketer" need only set up a company to send out that one unsolicited communication from, before using the same marketing database in a new company, adds Pierce. On each occasion, a person would only have been marketed to once and Popi would not have been contravened.

Smith echoes Pierce. He says though the eight principles in the act are clear about what personal data can be collected, processed, stored and deleted, there are some grey areas. Even so, Smith thinks it will make a big difference. "There will no doubt be areas that remain grey and this will most likely lead to levels of "exploitation". However, it should be a huge improvement on the current position of spamming."

No end to direct marketing

Danny Aaron, one of the founders of 3 Way Marketing, says Popi is not going to put an end to direct marketing, which happens in many countries that have had data protection laws for decades. "Direct marketing is a legitimate interest that organisations can pursue to find new customers. The big change or implication of Popi is that in future (about mid-2016) direct electronic marketing to prospects will be opt-in."

Aaron adds that it is not even an offence if a company does not get a person's consent, when Popi requires it to get consent. "It is only an offence if the information regulator tells you that you have to get someone's consent and you don't. You must take any enforcement notice you receive from the information regulator seriously."

Even under Popi, marketers can still call potential customers to offer them products. According to Aaron, Popi defines direct marketing very broadly. Any form of push marketing where you are communicating to a person is probably direct marketing. Electronic communications is also quite broadly defined and includes the typical things like e-mails, SMSes, AVM, and faxes.

The buying and selling of customer information

There is also speculation that some companies are selling customer information.

Aaron says it is not unlawful to buy and sell personal information. But whoever has access to that information must comply with the conditions for lawful processing in future. "List builders (or brokers) who do it badly will struggle and their activities will probably become unlawful. But those who do it well, in many cases, already comply with most of the conditions. Consumers will also have a lot more access to information, power and control over their personal information."

Prepping for Popi

Despite this, some companies are preparing for the implementation of Popi, which is waiting for the appointment of the information regulator, including its members. Private sector companies - particularly those with ties to the EU or the UK - are being more proactive in preparing for when Popi becomes effective. However, state-owned companies are a lot more relaxed, says Pierce.

He expects the information regulator to be up and running by the middle of next year.

Phoenix Distribution CEO Simon Campbell-Young says that Popi doesn't just apply to customers. It also applies equally to any personal information that companies and employers may collect and keep about any person who might wish to work, or has worked for them. In light of this, businesses will have to better manage how they collect, store, process and disseminate personal information, he says.

Thabiso Mochiko

Source: Financial Mail

For more, visit: <https://www.bizcommunity.com>