



IRISH DIRECT MARKETING ASSOCIATION LTD

No free lunch (or beer, or wine.....)

At a recent charity event, a sponsor organised a quiz, the prize for which was a crate of six bottles of expensive champagne. Contestants were asked to answer four questions, provide their name, mobile number and e-mail address, and then give the completed forms to a member of staff who came around to each table. The clear assumption was that the submitted answers would be reviewed the next day (it was already late in the evening) and the winner notified by text or e-mail in due course.

Imagine my surprise, then, when this sponsor, director of a well-known wine importer and distributor, came to the microphone about half an hour later to announce that, 'Yes, we have a winner!' The lucky person was then called up to receive their prize. Cue applause, some good-natured banter and a few helpful offers to assist with sampling the winnings.

As we returned our focus to the evening's entertainment, I was left to reflect on the smooth operation that had just netted approximately 250 names and personal contact details without a murmur or an objection. And especially since July 1st, 2011, the process of acquiring those addresses was a potential breach of Ireland's new Direct Marketing legislation.

The process was an interesting blend of social engineering and the good old 'bait and switch'. Social engineering was used to generate a degree of good-will towards the sponsor – they had, after all, supplied the wine for a very enjoyable meal, and had even provided an expert to describe each bottle, its provenance and key characteristics. No wonder then, that the attendees were well-disposed towards the company when the competition was introduced. And just to keep our 'eyes on the prize', the form had several references to the generous prize that awaited the lucky winner.

Aside from the four questions, the name of the importer and the blank fields for contact details, there was no other information provided on the form. No indication of the purpose for which the contact details were being gathered. No expectation that the attendees could expect an e-mail in the next couple of weeks, promoting the importer's special Christmas offers. No 'opt in' box to indicate consent to receive their monthly newsletter. For that matter, there was no 'opt out' box in which to decline such correspondence. And no contact details at which the importer could be contacted, in the event that a contestant wished to raise the matter.

At a recent information breakfast at the Aviva Stadium, hosted by the IDMA, Mr. Billy Hawkes, the Irish Data Protection Commissioner, summarised the core principle of the new legislation as follows: 'Only contact willing customers'.

Four simple words, but they carry a lot of implications for those of us involved in direct marketing, and particularly marketing campaigns involving electronic communications. The clear implication is that, wherever possible, the customer (or prospective customer) should be given the opportunity to declare an interest, and to 'opt in' to any marketing campaign or activity. At the very least, there should be some form of notice that an individual's personal data is being acquired for the purposes of being included in a marketing campaign.

In the absence of any such information, the kind sponsor's campaign fell short. Any marketing activity which subsequently made use of our data would have been unlawful, and potentially damaging to his brand and his reputation.

There was a similar case of suspended disbelief in the papers recently – by coincidence, it involved a similar marketing campaign, free alcohol and a much different 'winner'.

Police in Derbyshire organised a 'direct marketing campaign' in which they wrote to several individuals who were 'persons of interest' (i.e. had avoided court appearances, absconded while on bail, failed to pay fines or were suspected of involvement in a range of criminal activities), and told them they had won a free crate of beer.

Helpfully, the letter informed them that the 'sponsor' would be only too happy to pop around with the prize at a time that suited the lucky winner. And nineteen of them, to date, jumped right in, calling the number listed in the letter and, unwittingly, arranging with the police to be at home at a particular date and time.

It was a relatively simple matter for the police to show up at the agreed time and make the arrest, and not a keg of beer in sight. Another success for the old 'bait and switch' approach. Not quite the 'willing customers' that the Commissioner had in mind, but I'm sure they will have plenty of time to reflect on their folly.

The general public may be easily distracted by the promise of easy pickings, but just because they suspend their critical faculties, it does not give marketing companies the licence to take advantage. The recent legislation has outlined simple yet effective rules by which the general public can be put on notice about any planned marketing activities. In the end, there are no free lunches or crates of beer. Not even at Christmas. More's the pity.