

Do Not Call: TIM's Neglect and Mismanagement

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Abstract

In January of 2020, TIM SpA, an Italian telecommunications operator, was fined 27.8 million euros by the Italian Data Protection Authority (GDPD: Garante per la Protezione dei Dati Personali) for improperly using customer data. The violations were discovered due to hundreds of complaints against TIM by data subjects who received repeated marketing calls without their consent, and in some cases despite their phone numbers being registered on the public list of oppositions.

1 Background

TIM SpA is an Italian telecommunications operator founded in 1994. The company is the largest telecommunications provider in Italy in terms of both revenues and subscribers [2].

TIM engages in marketing campaigns with both current and prospective customers, where the company provides lists of phone numbers to call centers [4]. This makes TIM a data controller and the call centers data processors. The relevant data subjects are TIM's current and prospective customers.

In February 2018, the Italian Data Protection Authority created new provisions for the Public Opposition Register. The Register was established in 2010, and telemarketers legally cannot call phone numbers registered on this list [6].

Per the GDPR, TIM is required to allow customers to oppose the use of their data for specific purposes. This means that if customers ask not to receive marketing calls, call centers should no longer contact them.

TIM runs a program called "TimParty" in which customers received discounts, prizes, and other promotions. Prior to 2020, in order to register for this program, customers were required to consent to their data being used for marketing purposes [3].

2 GDPR Violation

From January 2017 to the beginning of 2019, hundreds of customers and non-customers receiving marketing calls from

TIM filed complaints with the Italian Data Protection Authority (GDPD) [4]. These complaints mainly detailed customers receiving promotional calls without having consented to their data being used for marketing purposes. Some customers had specifically requested not to be contacted by TIM, and others had registered their numbers on the Public Opposition Register.

The GDPD investigated TIM's involvement complaints between November 2018 and February 2019, and followed up with investigations of TIM's call centers between March and June 2019 [4].

TIM was notified of by the GDPD of the start of legal proceedings against them on July 25, 2019 and given until October 10, 2019 to provide documents in response [4]. The company provided a defense brief on October 10, 2019, had a hearing on November 5, 2019, and provided supplementary defense documents on November 12, 2019 [4].

2.1 Details of Violations

Through these investigations, the GDPD found numerous issues with TIM's handling of customer data:

Lack of consent TIM's call centers were found to have contacted prospective customers without obtaining their consent, in violation of articles 6 and 7 of the GDPR. The investigation found that TIM was not appropriately aware of their call centers' behavior and did not appropriately supervise their actions. TIM also collected consent improperly in some cases, for instance requiring that customers who joined the TimParty program consent to their data being used for marketing purposes [4].

Blacklist mismanagement The investigation found significant issues with TIM's system of handling customer objections to marketing, in violation of the GDPR right to object (article 21). Lists of customers to be excluded from marketing campaigns ("blacklists") were distributed by TIM to its call centers, but the call center lists and TIM's lists were found to be inconsistent with

each other. Additionally, it often took many days for customers to be added to these blacklists, up to 300 days in a severe case. [4]

Mismanagement of data breaches In the investigation, the GPD examined some of the data breach notifications which TIM had previously issued to customers. This examination found that on multiple occasions, TIM waited longer than the 72 hours allowed by GDPR article 33 to notify the supervisory authority, up to multiple months after detecting the breach. The company's systems for processing customer data were found to encounter frequent "anomalies" as a result of inadequate technical measures being taken to protect customer data, violating GDPR article 32. These anomalies caused TIM's records matching phone numbers to customers to be inaccurate, which led to the wrong customers being contacted with information such as invoices [4].

2.2 Resolution

The case was resolved on January 15, 2020. TIM was fined 27.8 million euros, corresponding to 0.2% of TIM's annual revenue [4].

In addition, the GPD also imposed a total of 20 "corrective measures" on TIM. These include [1]:

- prohibiting TIM from using for marketing the customer data of those who had opted out of receiving promotional calls
- prohibiting TIM from using for marketing customer data collected through their apps without consent
- requiring TIM to verify their do not call lists with those of their call centers
- requiring TIM to remove mandatory marketing consent from the TimParty program

As far as we can tell, TIM did not acknowledge the violation publicly (we are not able to find any press releases referencing the violation). However, the company website does have a page on privacy in which they describe the steps they've followed to comply with the GDPR [5].

On this page, they mention that in 2020, they worked to improve policies "regulating the management of the requests of data subjects concerning the exercise of their rights regarding personal data protection", "deal with any violation of personal data security" and "respond to the numerous customer requests...and the information requests submitted to TIM by the Italian Data Protection Authority" [5].

Given the timing and the reference to the Italian Data Protection Authority, this section seems to be in response to the violation, but is not explicitly stated as such.

2.3 Causes and Prevention

The primary cause of TIM's issues was the lack of a proper technical system to maintain their blacklists of customers not to contact and failing to align these lists with those of their call centers. These failings seem to have come from negligence on the part of the company, especially considering their numerous issues with data breaches and "anomalies". To prevent such issues in the future, TIM and other companies should ensure their technical systems provide a singular point of reference for their marketing blacklist which can be used by call centers or other marketing partners.

3 Discussion

The fine imposed on TIM of 27.8 million euros corresponds to 0.2% of their annual revenue [4]. This is far lower than the maximum legal fine of 4% of a company's revenue. Given that TIM was improperly processing the data of millions of customers and non-customers, this fine does not place a large value on any individual customer's data.

We believe violations similar to TIM's to be commonplace. As anecdotal evidence, one of the authors knows someone who in high school made a significant amount of money (the exact amount is unknown to the authors due to non-disclosure agreements) by asking telemarketers to put him on their "do not call" list, waiting to be called back, and threatening to sue the company. These cases were all settled out of court.

Many companies use call centers extensively for marketing, and the likelihood of any one individual going through the trouble of filing an official complaint is low, so the cost to making errors in maintaining blacklists of which customers not to contact may seem low.

The magnitude of the fine imposed on TIM is likely not large enough to create a significant incentive for companies to change their practices. The case also does not seem to have had a large impact on TIM's business: they are still the largest telecommunications company in Italy, and the company Wikipedia page does not even mention the violation [2].

To cause significant change in how companies manage their marketing practices, we believe that a far larger fine would need to be imposed on a company similarly found mismanaging customer data.

References

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