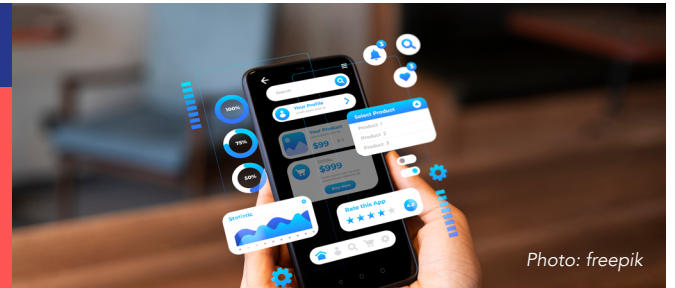


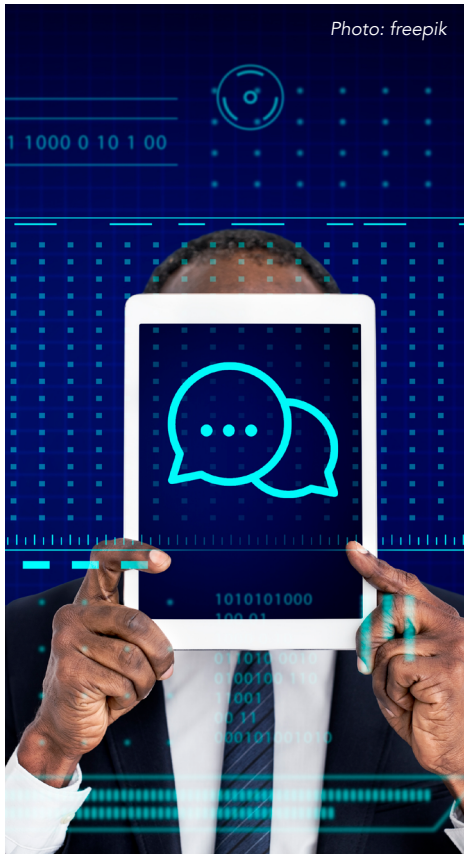
## DATA PRIVACY ROUNDUP FOR 2025 Q1

### 1. OVERVIEW

In this issue of our Data privacy roundup, we discuss what is happening in South Africa and abroad to bring you the latest data privacy and protection news.



## 2. WHAT HAS BEEN HAPPENING AT HOME



### 2.1. Information Regulator released a direct marketing guideline

Since the commencement of the [Protection of Personal Information Act 4 of 2013](#) on 1 July 2021, there has been uncertainty about whether ‘electronic communication’ includes telephone calls, as mentioned in the Act. The uncertainty was so evident that the Information Regulator released a [Guidance Note on Direct Marketing](#) on 3 December 2024, to clarify it.

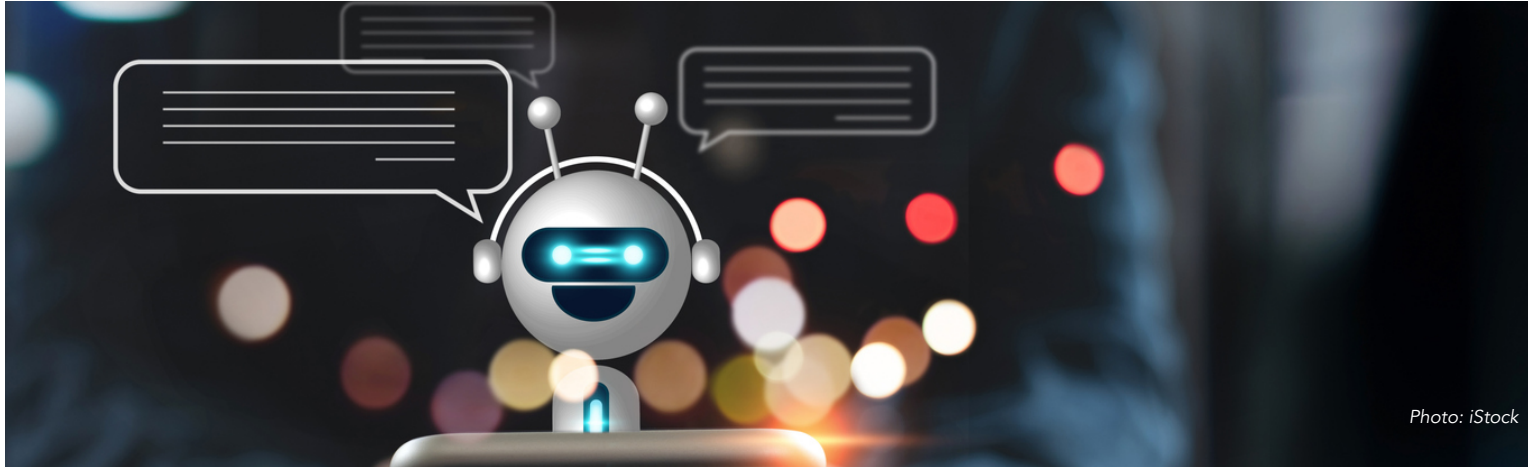
In the guideline, the Information Regulator has adopted a contentious interpretation of what qualifies as ‘electronic communication’, specifically including telephone communications in this definition. This development has significant implications for marketers and everyone else, as direct marketing forms a part of our daily lives in one way or another.

This is what the Information Regulator said to explain its decision under 7.1.1–7.1.2:

‘It is the view of the Regulator that telephone calling is electronic communication by virtue of telephone communications technology having become digital over time. Telephone calls predominantly use VoIP (Voice over Internet Protocol) which is packet-switched telephony rather than the public-switched telephony previously used for analogue communication. The analogue voice is encoded into a digital stream that is divided into small data packets which are labelled according to their order. These voice data packets are transmitted using real-time protocols during a telephone call are stored on the network. The voice data packets are re-assembled to match the original order of transmission, error correction is applied to digital data stream to compensate for the delay caused by packet re-assembly and finally relayed to the recipient’s terminal equipment to be decoded into analogue voice for consumption upon the recipient’s acceptance of the call.’

It is important to note that although the guideline clarifies the Information Regulator’s approach, it is not legally binding. However, data subjects must keep this in mind, as this will be the Information Regulator’s approach until a court ruling challenges its stance. See [Direct Marketing in South Africa](#) for more information on direct marketing.

## 3. WHAT HAS BEEN HAPPENING ABROAD



### 3.1. EU Cyber Resilience Act published

The [EU Cyber Resilience Act \(CRA\)](#), adopted on 23 October 2024, was officially published in the EU's Official Journal on 20 November 2024 and will come into force on 11 December 2027.

Serving as a complement to the NIS 2 Directive, the CRA establishes cybersecurity standards for 'products with digital elements', covering hardware, software, and related remote data processing solutions. These products must be capable of connecting to devices or networks, whether directly or indirectly.

Unlike the NIS 2 Directive and the Data Act, the CRA does not include exemptions based on business size or financial thresholds. Its provisions apply universally to manufacturers, distributors, and importers, ensuring that small and medium-sized enterprises (SMEs) and start-ups are within its scope. This inclusive approach is designed to promote comprehensive cybersecurity resilience across the market.

### 3.2. Open letter to UK online service providers regarding Generative AI and chatbots

On 8 November 2024, the UK's Office of Communication (Ofcom) issued an [open letter to UK online service providers](#), addressing how the Online Safety Act applies to Generative AI and chatbots.

The UK's Online Safety Act has significant implications for Generative AI tools and chatbots. Generative AI platforms, which can create content such as text, images, or videos in response to user prompts, fall under the scope of the Act when they allow users to share or create content. This includes services offering chatbot libraries or enabling group interactions. The Act treats AI-generated content as user-generated, and subject to the same regulations as human-generated material. Providers must ensure compliance by implementing risk assessments, content moderation, and age assurance measures.

## 4. WHAT'S NEXT?

Our roundups will keep giving you data privacy updates locally and from abroad. If you are interested in reading more about the topics covered in this article, refer to these chapters in the Understand the Law tab:

- [Chapter 5](#): Information Security Management
- [Chapter 16](#): Direct marketing

