



**OFFICE OF THE DATA PROTECTION COMMISSIONER**

**ODPC COMPLAINT NO. 0621 OF 2025**

**SHARAMO WARIO ISSACKO.....COMPLAINANT**

**-VERSUS-**

**PLATINUM CREDIT LIMITED .....RESPONDENT**

**DETERMINATION**

*(Pursuant to Section 8(1)(f) and 56 of the Data Protection Act, 2019 and Regulation 14 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021)*

**A. INTRODUCTION**

1. The Complainant lodged a complaint with the Office, asserting that the Respondent has been sending them unsolicited promotional messages without consent.

**B. LEGAL BASIS**

2. Article 31(c) and (d) of the Constitution of Kenya provides for the right to privacy. Consequently, as an effort to further guarantee the same, the Data Protection Act, 2019 (hereinafter known as 'the Act') was enacted.
3. The Office of the Data Protection Commissioner (hereinafter as 'this Office' and/or 'the Office') was established pursuant to Section 5 of the Act and is mandated with the responsibility of regulating the processing of personal data; ensuring that the processing of personal data of a data subject is guided by the principles set out in Section 25 of the Act; protecting the privacy of individuals; establishing the legal and institutional mechanism to protect personal data and providing data subjects with rights and remedies to protect their personal data from processing that is not in accordance with the Act.

4. Section 8(1)(f) of the Act provides that the Office can receive and investigate any complaint by any person on infringements of the rights under the Act. Furthermore, Section 56(1) of the Act provides that a data subject who is aggrieved by a decision of any person under the Act may lodge a complaint with the Data Commissioner in accordance with the Act.
5. This determination is premised on the provisions of Regulation 14 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021 (hereinafter as 'the Enforcement Regulations') which states that the Data Commissioner shall, upon the conclusion of the investigations, make a determination based on the findings of the investigations.

### **C. BACKGROUND OF THE COMPLAINT**

6. This Office received a complaint from the Complainant on 29<sup>th</sup> April 2025. The complaint was lodged pursuant to Section 56 of the Act and Regulation 4 of the Enforcement Regulations by the Complainant, who was an aggrieved data subject.
7. Pursuant to Regulation 11 of the Enforcement Regulations, the Office, notified the Respondents of the complaint filed against them *vide* a letter dated 11<sup>th</sup> June, 2025 and referenced ODPC/CIE/CON/2/1 (350). In the Notification of the Complaint, the Respondent was informed that if the allegations by the Complainant were true, they were in violation of various provisions of the Act. Further, the Respondent was asked to provide this Office with the following:
  - a. A response to the allegations made against them by the Complainant; a contact person who can provide further details as regards to this complaint.
  - b. Provide any relevant materials or evidence in support of your response above;
  - c. The contractual agreement with the Complainant,
  - d. Details of how you collected, stored, and processed the complainant's personal data, and whether he consented to the processing of his personal data;

- e. The lawful basis for denying the Complainant his right to object to the processing of his personal data;
  - f. The mitigation measures adopted or being adopted to address the complaint to the satisfaction of the Complainant if any;
  - g. Any other relevant information they wish the Office to consider.
8. The Respondent submitted their response vide a letter dated 26<sup>th</sup> June 2025.
9. This determination is therefore as a result of analysis of the complaint as received, the respondent responses and investigations conducted by the Office.

#### **D. NATURE OF THE COMPLAINT**

10. The complaint relates to the Complainant's averment that the Respondent has been sending him unsolicited promotional messages, without his consent and without any prior affiliation with the Respondent.

#### **E. SUMMARY OF RELEVANT FACTS AND EVIDENCE ADDUCED**

##### **i. THE COMPLAINANT'S CASE**

11. The Complainant, states that he became aware of numerous and disturbing calls and text messages from the Respondent, sent through his official Safaricom line 07\*\*\*\*\*. These communications, which began in 2022, informed him that the Respondent was offering check-off loans to civil servants and other employed individuals. He avers that these communications commenced a year after he had been employed by the Public Service Commission (PSC).
12. The Complainant states that on 24<sup>th</sup> March 2023, he visited the Respondent's Head Office at International House, Nairobi, and lodged a complaint with the Customer Service Department, seeking an explanation for what he contended was a blatant breach of his data privacy. He also attached a letter in support of this complaint. However, despite this initial step, he continued to receive similar calls and messages in the months that followed. The Complainant maintains that he returned to the Respondent's offices and insisted on being attended to exclusively by the Customer Care Manager.

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13. The Complainant asserts that the manager subsequently requested that the Complainant provide the phone numbers responsible for the unsolicited communications so that internal investigations could be undertaken. The Complainant avers that he complied and provided the requested information via email.
14. Moreover, he was informed that his personal details had been erased from the Respondent's database and that disciplinary action had been taken against the responsible agents or staff members. However, despite these assurances, the calls and messages resumed after a few months.
15. The Complainant asserts that one particularly distressing incident occurred when he received a call from the Respondent during Friday prayers at the mosque, an occurrence that caused him significant emotional distress. He subsequently sent a follow-up email to [online@platinumcredit.co.ke](mailto:online@platinumcredit.co.ke), questioning why the company continued to breach his privacy.
16. The Complainant purports that the Respondent, once again, requested him to provide the offending phone numbers. A few days later, he received a call from the Sales and Marketing Manager, who purported that a thorough investigation had been completed and disciplinary measures had been taken.
17. The Complainant states that the sales and marketing manager also assured him that no further unsolicited contact would be made. Furthermore, the Complainant requested that this assurance be put in writing and the sales and marketing manager stated that he was on leave and would provide a written response upon his return.
18. Nevertheless, the Complainant avers that the situation reverted to its previous state. Each new week brought more calls and messages from different numbers, all marketing check-off loans from the Respondent. The Complainant contends that he again reached out to the sales and marketing manager and expressed that the continuous harassment was causing him emotional distress. He made it clear that he intended to escalate the matter by pursuing legal action and reporting the

Respondent to the Office of the Data Protection Commissioner for breach of privacy.

19. The Complainant provided a screenshot of multiple promotional messages from the Respondent's agents.

## ii. THE RESPONDENTS' RESPONSE

20. The Respondent acknowledged receipt of Complaint No. ODPC/COMP/0474/2025 concerning alleged unsolicited promotional messages sent to the Complainant.

21. The Respondent avers that following a thorough investigation, they confirmed that the Complainant had never been a customer and that they did not have his information or data stored in their database.

22. The Respondent further states that the Complainant had provided five phone numbers which he alleged had contacted him while claiming to represent the Respondent. Upon investigation, the Respondent established that four of those numbers were neither registered to their staff nor associated with any of their authorized agents. These numbers, they contend, were not recognized within their internal databases or any affiliate system. As a result, they put the Complainant to strict proof in accordance with the Evidence Act.

23. The Respondent asserts that although the Complainant submitted screenshots of messages purportedly originating from their agents, mere screenshots or self-declared affiliations, without verifiable proof, were insufficient to attribute the alleged conduct to the Respondent and did not meet the evidentiary threshold required.

24. Based on these findings, the Respondent contends that the individuals behind the contacts were impersonating their brand. To safeguard their brand identity and support investigations, they reported the matter to the police. A copy of the Occurrence Book (OB) extract, filed under OB No. **XX/XX/XX/25**, was attached for reference.

25. The Respondent states that among the numbers shared, one 07\*\*\*\*\* belonged to their Sales and Marketing Manager, who had contacted the

Complainant in 2022. The Respondent avers that the Sales and Marketing Manager took full responsibility for the initial contact and had issued a personal apology to the Complainant after deleting his number from the system.

26. The Respondent further states that its Privacy Policy outlines a straightforward process to opt out of promotional communications and exercise one's rights under data protection law. The Complainant was at all times able to contact the Respondent to request deletion of his personal data or to object to processing for direct marketing purposes.
27. The Respondent maintains that that at the time in 2022, direct marketing practices in the financial sector were subject to evolving interpretations under Kenya's data protection framework. While the Sales and Marketing Manager had contacted the Complainant in the context of his professional duties, the Respondent acknowledges that the communication did not align with emerging standards and best practices related to consent-based marketing.
28. The Respondent further avers that the Sales and Marketing Manager has since undergone extensive training in data protection compliance and is now fully aware of his obligations under the Data Protection Act. They confirmed that they had implemented stringent internal compliance protocols and continued to sensitize all staff and agents on lawful data handling practices.
29. The Respondent states that additional interactions between the Sales and Marketing Manager and the Complainant took place in 2024 and 2025, and that these were initiated by the Complainant himself. These subsequent engagements, they aver, were related to concerns raised by the Complainant regarding further unsolicited communications allegedly from other individuals.
30. The Respondent further avers that the Sales and Marketing Manager had actively requested the Complainant to provide the numbers of those allegedly contacting him, but to date, the Complainant had not shared any additional numbers. They contend that this lack of cooperation had significantly hindered their ability to investigate the matter further. Nonetheless, they state that the Sales and Marketing Manager escalated the matter internally and took proactive steps to

ensure the Complainant did not receive any future unsolicited contact. They also noted that supporting evidence of these communications and efforts had been provided for consideration.

31. Moreover, the Respondent states that all marketing messages originating from them include a clear opt-out mechanism, allowing recipients to unsubscribe by replying with the keyword "STOP," thereby ensuring individuals maintain full control over whether they receive further communications.

### **ISSUES FOR DETERMINATION**

32. In light of the above, the following issues fall for determination by this Office:

- i. Whether there was a violation of the Complainant's rights under the Act and attendant regulations.
- ii. Whether the Complainant is entitled to any remedies under the Act and the attendant Regulations.

### **I. WHETHER THERE WAS A VIOLATION OF THE COMPLAINANT'S RIGHTS UNDER THE ACT**

33. The right under Section 26(a) is a right to inform where a data controller or processor shall ensure a data subject understands how their personal data is used and by whom.

34. The Complainant avers that since 2022, he has received unsolicited calls and messages marketing check-off loans, despite having no relationship with the Respondent and repeatedly objecting.

35. The Respondent contends that the Complainant was never a customer, that most numbers contacting him belonged to third parties impersonating their brand, and that the matter was reported to police.

36. The Respondent further states that the Complainant only provided screenshots and phone numbers which did not meet the evidentiary threshold to link the conduct to them.

37. However, the Respondent admitted that one of the numbers belonged to their Sales and Marketing Manager, who contacted the Complainant without consent and later apologized.

38. From the foregoing, the Office finds that the Respondent did not provide any information as to how they obtained the Complainant's contact information.
39. The admission that one of the said numbers belonged to the Respondent's Sales and Marketing Manager demonstrates that the Complainant was not informed as to the purpose of the collection of his personal data which goes against the right set out under Section 26(a).
40. Further Section 26(c) of the Data Protection Act, 2019 gives a data subject the right to object to the processing of all or part of their personal data.
41. The Complainant avers that he received repeated, unsolicited marketing messages from numbers promoting loans. He objected multiple times, including in person, via email, and directly to the Respondent's Sales and Marketing Manager.
42. The Respondent however avers that most of the numbers that contacted the Complainant were by impersonators, save for one instance by its staff which happened in 2022 who allegedly apologized and deleted the number.
43. The Respondent further avers that they reported the alleged impersonators to the police and even adduced as evidence an OB number. The Respondent also states that the communication between the Complainant and their Sales and Marketing Manager occurred in 2024 and 2025 which were initiated by the Complainant upon concerns of unsolicited messages by agents who were allegedly from the Respondent.
44. The Respondent however demonstrated that the said Sales and Marketing Manager vide internal staff mail warned staff not to contact the Complainant on 26<sup>th</sup> August 2024.
45. In that regard, the Office holds that the Complainant's right to object was not violated by the Respondent.
46. In view of the foregoing, the Office finds that the Respondent violated the Complainant's right to be informed under Section 26(a) of the Act.

## II. WHETHER THE COMPLAINANT IS ENTITLED TO ANY REMEDIES UNDER THE ACT AND THE ATTENDANT REGULATIONS.

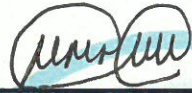
47. Pursuant to Regulation 14(2) of the Enforcement Regulations, a determination shall state the remedy to which the Complainant is entitled. Further, the remedies are provided for in Regulation 14(3) of the Enforcement Regulations.
48. The Complainant requested this Office to issue an award of compensation of Kshs 500,000.
49. Section 65 of the Act provides that a person who suffers damage by reason of a contravention of a requirement of the Act is entitled to compensation for that damage from the data controller. The Section indicates that damage included financial loss and damage not involving financial loss including distress.
50. Further, Regulation 14 (3) (e) of the Enforcement Regulations provides that the Data Commissioner may make an order for compensation to the data subject by the Respondent. In this case, the Complainant's rights under Section 26(a) to be informed of the use to which his personal data would be put was violated by the Respondent.
51. In considering whether to issue compensation, this Office takes into consideration the fact that the Complainant's right to be informed under Section 26(a) was infringed. The Office further takes into account:
- i. The allegation that that the individuals behind the contacts were impersonating the Respondent's brand. To safeguard their brand identity and support investigations, the Respondent reported the matter to the police and the same was demonstrated as the same borders criminal elements.
  - ii. The Respondent avers that the Sales and Marketing Manager took full responsibility for the initial contact and had issued a personal apology to the Complainant after deleting his number from their system.
52. In this context, the Respondent is hereby ordered to pay the Complainant **Kenya Shillings Fifty Thousand (KES 50,000)** for the infringement of his right under the Act.

## F. FINAL DETERMINATION

53. The Data Commissioner therefore makes the following final determination: -

- i. The Respondent is found liable.
- ii. The Respondent to pay the Complainant a sum of **Kenya Shillings Fifty Thousand (KES 50,000)** as compensation.
- iii. Parties have the right to appeal this determination to the High Court of Kenya within thirty (30) days.

DATED at **NAIROBI** this 27<sup>th</sup> day of July 2025.



**IMMACULATE KASSAIT, MBS  
DATA COMMISSIONER**

