

LexisNexis Practical Research - IP&IT

Hi! Fashion is a small chain of boutique clothing stores owned by Annabelle Onyat. Since the days of her first store, Annabelle has kept a handwritten black book of information on her high spending customers containing their e-mail addresses, measurements, favourite designers, styles and colours. She has used this periodically to email them when she feels she has something just perfect for them in stock.

Memo

To: New IP&IT Trainee
From: Supervising Associate
Client: - Hi! Fashion
Status: URGENT

As the company has expanded, Annabelle has hired a Marketing Director – Clive. Clive wants to email Annabelle's black book contacts promoting a new range of clothing designed in-house and branded with the Hi! Fashion logo. He has found a photo on the web of a celebrity wearing a Hi! Fashion t-shirt and wants to include it in the mailshot.

They want to have a chat tomorrow about whether they can do that. There may be data protection issues here - but it's just a book. I'm concerned about copyright issues and I seem to remember some cases about using celebrities to promote things without their permission. Can you prepare answers to the following questions please? Thanks.

- 1) Is the information in the black book subject to the Data Protection Act 1998?
- 2) What rules apply to using that contact information to send marketing emails?
- 3) Are any copyright issues relevant to an image taken from the web?
- 4) What does case law tell us about celebrity endorsement issues in these circumstances?

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