

CONSULTATION DOCUMENT

**IMPLEMENTATION OF THE DIRECTIVE ON PRIVACY
AND ELECTRONIC COMMUNICATIONS**

Department of Trade and Industry

March 2003



Department of Trade and Industry

Contents

Introduction	Page 3
Summary of questions	Page 5
Chapter one: background, current rules and impact of new Directive	Page 7
Draft Regulations	
Chapter two: scope, aim and definitions	Page 18
Chapter three: security and confidentiality, cookies and other tracking devices	Page 21
Chapter four: network and service providers' requirements: traffic data, itemised billing, calling line identification, location data services, call tracing and forwarding	Page 27
Chapter five: subscriber directories	Page 31
Chapter six: unsolicited commercial communications: automated calling systems, fax, phone, e-mail and SMS	Page 36
Chapter seven: enforcement and sanctions, technical standards, and exemptions for national security and law enforcement purposes	Page 43
Annex 1	Directive on Privacy and Electronic Communications 2002/58/EC
Annex 2	Draft SI: The Privacy and Electronic Communications (EC Directive) Regulations 2003
Annex 3	ICO Guidance
Annex 4	Partial Regulatory Impact Assessment
Annex 5	Consultation Criteria

Introduction

The Directive on privacy and electronic communications (Directive 2002/58/EC) (the “Privacy Directive”) is part of the new European regulatory framework for electronic communications networks and services. The Privacy Directive updates the current Telecoms Data Protection Directive (Directive 97/66/EC) in the light of new technologies and ensures that the privacy rules which apply to phone and fax services also apply to e-mail and use of the internet. It aims to protect the confidentiality of communications, sets conditions on the use of traffic, location and subscriber data, and subscriber directories, and regulates the use of communications networks for unsolicited direct marketing by phone, fax, e-mail and SMS.

There are new provisions in the Directive on:

- **value added services based on traffic and location data**
- **unsolicited commercial e-mail and SMS**
- **cookies and similar internet tracking devices, and**
- **subscriber directories**

This Directive is of interest to phone/internet users, communications network and service providers, website and online content businesses, subscriber directory providers and anyone who direct markets by phone, fax, SMS or e-mail.

The purpose of this consultation is to seek your views on how the UK should implement the new rules in the Directive and whether there are any other changes we should make to the existing rules in this area. In particular, you are invited to comment on the draft Privacy Regulations at Annex 2. You are also invited to comment on the costs and benefits of the options identified in the draft regulatory impact assessment at Annex 4. This paper asks a number of questions (summarised on pages 5 and 6) and your comments on these and any other issues raised by the implementation are welcome.

How to submit your comments

Responses should be sent in by 19 June 2003 to:

Mrs Buki Edoja
Department of Trade and Industry
Bay 202
151 Buckingham Palace Road
London SW1W 9SS
Tel: 020 7215 5000

Or by e-mail to:

cdpd@dti.gsi.gov.uk

Further copies of this consultation paper are available from:

DTI Publications Orderline
ADMAIL 528
London
SW1W 8YT

Tel: 0870 1502 500
Fax: 0870 1502 333

E-mail: publications@dti.gsi.gov.uk
Order online: <http://www.dti.gov.uk/publications/>

The reference number to quote on orders is URN 03/762.

Publication of responses

We plan to publish the responses we receive except where respondents prefer to remain private. Please indicate on your response if you would like it to be treated as confidential.

Consultation guidelines

The DTI follows Government guidelines on consultations. Details of the guidelines are set out in Annex 5. If you have any comments or complaints about the consultation process or timetable you should contact the DTI's consultation coordinator:

Mr Philip Martin
Department of Trade and Industry
1 Victoria Street
London

Next steps

The final version of the Regulations is expected to be laid in Parliament in August this year, and brought into force on 31 October 2003.